

## **Category #2:**

OGS should accept products listed or certified by other organizations and not rely solely on the Green Seal standards.

## **State Response:**

To select appropriate criteria for defining guidelines and specifications for “environmentally-sensitive” cleaning and maintenance products, OGS and the consulting agencies reviewed research, guidance and criteria issued by:

US Environmental Protection Agency (EPA),  
Office of the Federal Environmental Executive,  
Global Ecolabelling Network (GEN),  
International Organization for Standardization (ISO) and  
other state and local governments.

A number of accepted principles can be found in the guidance offered by EPA, GEN, ISO and the work of other state and local governments. A core principle is the importance of establishing clear environmental product standards that are transparent (i.e., they are publicly available, easily accessed and understandable to the lay person), based on a "systems" or life cycle approach (i.e., "cradle to grave"), scientifically sound and fairly and uniformly applied to all manufacturers.

On August 20, 1999, USEPA issued final guidance on environmentally preferable purchasing for executive agencies (64FR45810-45858). The document provides guidance to federal agencies in identification and acquisition of environmentally preferable products and services. Included in that document is guidance for the use of non-governmental entities and a list of characteristics for evaluating the organization (p. 45855). The list of characteristics for evaluation includes:

- an open, public process that involves key stakeholders (businesses, environmental and consumer groups, states, etc.) in developing its criteria or standards.
- award criteria, assumptions, methods and data used to evaluate the product or product categories that are transparent (i.e., they are publicly available, easily accessed and understandable to the lay person).
- a system of data verification and data quality.
- a peer review process (with representation of all stakeholders) for developing the standards or criteria.
- criteria that are developed based on a "systems" or life cycle approach (i.e., "cradle to grave").
- an outreach program to educate the consumer, which includes clear communications to consumers that provide key information concerning environmental impacts associated with the product.
- an established goal of updating standards or criteria as technology and scientific knowledge advance.
- authority to inspect the certified product's facility to ensure compliance with the standards or criteria.
- testing protocols for the certified products that ensure testing is conducted by a credible institution.
- access to obtaining the seal by small- and medium-sized companies (e.g., the cost of the seal is not so high as to prevent access by smaller companies).
- compliance with the Federal Trade Commission's (FTC) *Guides for the Use of Environmental Marketing Claims*.

In the judgment of OGS, these characteristics are important in evaluating whether an organization has an acceptable process for helping the State select criteria for defining “environmentally-sensitive” products as defined in the legislation, and Green Seal has these characteristics.

OGS also prefers that products be certified by a third party organization that is independent of the manufacturers and formulators of the products. Such certification is viewed as important and provides an additional level of assurance that the product complies with the stated standard. However, in recognition of concerns about the registration costs for small manufacturers/formulators, OGS will, as originally

proposed, accept products for listing following the procedure described in V.B.1, fifth bullet of the Guidelines.

The Green Seal GS-37 standard for cleaning products is a good start at protecting the health of school children and the environment. However, the standard can be improved in a number of ways, and OGS is committed to supporting review and revision of the GS-37 standard during the next 12-18 months.

OGS and the consulting agencies have carefully reviewed the characteristics of the Environmental Choice Program, managed by Environment Canada and TerraChoice Environmental Marketing, and the USEPA Design For the Environment (DfE) Formulator Program. Environmental Choice maintains two relevant standards for the same types of cleaning products as the OGS Guidelines - CCD-146 for Hardsurface Cleaners and CCD-148 for Carpet and Upholstery Care Products. More specifically, the relevant standards for the OGS Guidelines are the General Hardsurface Cleaner Requirements (General Purpose Cleaners), CCD-146A (Window and Glass Cleaner), CCD-146I (Cleaning Product with Low Potential for Environmental Illness and Endocrine Disruption), CCD-146J (Bathroom Cleaners) and CCD-148(a) (Cleaners). In addition, Environmental Choice standards for several paper products are substantially similar to the proposed OGS Guidelines - CCD-082 for Toilet Tissue, CCD-084 for Table Napkins, CCD-085 for Kitchen Towels and CCD-086 for Hand Towels. The CCD standards generally meet or exceed the proposed OGS Guideline standards for these types of products. Furthermore, TerraChoice Environmental Marketing has the important characteristics listed above and certifies products to the Environmental Choice standard in a manner very similar to Green Seal. Thus, OGS will also accept general purpose, window and glass, bathroom, carpet cleaners, toilet tissue, paper towels and napkins that have been certified by Environmental Choice to their appropriate standards.

The USEPA DfE Formulator Program DfE's Formulator Program works with industry partners to reformulate products to be environmentally safer, cost competitive, and effective. DfE provides chemical and toxicological information and suggests safer substitutes. The DfE Green Formulation Initiative for Cleaning Products (<http://www.epa.gov/dfe/pubs/projects/gfcp/partners.htm>), in partnership with the GreenBlue Institute (Charlottesville, VA), is working to develop a resource for formulators of industrial and institutional cleaning products interested in designing products with improved health and environmental characteristics. These partnerships and EPA technical assistance are clearly beneficial to the formulation industry and have been successful in encouraging formulators to improve the environmental and health characteristics of their ingredients. DfE also reviews product formulations of partners and maintains a list of recognized products (<http://www.epa.gov/dfe/pubs/projects/formulat/formpart.htm>). However, DfE has not established a standard or set of criteria that products must meet to be recognized. Furthermore, the recognized products are not certified to a standard. Thus, at this time, OGS cannot include the DfE recognized products as equivalent to those that have been certified by Green Seal and Environmental Choice.

The Greenguard Environmental Institute guidelines for indoor air quality performance will not be used because OGS is unable to find a clear set of test methodologies and protocols that could be appropriately applied to cleaning products for such a recommended certification.

### **Frequently Asked Public Comment received:**

Recognize Both EcoLogo<sup>M</sup> (Environmental Choice Program) and Green Seal Certifications: (A) EPA Design for the Environment (DfE) Criteria be used as the Primary Benchmark for Product Chemistry Instead of Green Seal

--The schools of New York State will be better served by recognizing EcoLogo<sup>M</sup> certification alongside Green Seal under the "Designation of Approved Products". By doing so, procurement officials would be able to include both a broader spectrum of applications as well as an increased number of trustworthy third-party certified environmentally preferable products and services.

EcoLogo<sup>M</sup> – the mark of the Environmental Choice<sup>M</sup> Program - is arguably the most prominent ecolabel in the world. It has been in operation since 1988 and currently has over 4,000 certified products and services approved to use the label. In the "green cleaning" sector, EcoLogo<sup>M</sup> is emerging as a leader in North America in terms of numbers of products certified and number of criteria for different cleaning applications.

EcoLogo<sup>M</sup> has specific criteria for sanitary paper products (toilet tissue, facial tissue, table napkins, kitchen towels and hand towels), typical cleaning and maintenance products (hard surface cleaners, floor care products, hand cleaners and carpet & upholstery) and bio-based products (cleaners & degreasers, digestion additives, drain & grease trap cleaners, odor control additives and septic tank additives) We have enclosed copies of all these Certification Criteria Documents (CCD's) for your review.

The EcoLogo<sup>M</sup> program is recognized and currently used as a green purchasing tool in many agencies in the United States and Canada. It is part of the Center For A New American Dream's Clean School Contest ([www.newdream.org/cleanschools](http://www.newdream.org/cleanschools)) and is recognized by purchasing institutions like the County of Sarasota and the State of Washington.

EcoLogo<sup>M</sup> has worked with other environmental labeling programs in the past including Green Seal. Currently, Green Seal and EcoLogo<sup>M</sup> are working together to introduce new, revised criteria for hand cleaners and EcoLogo<sup>M</sup> is exploring development of other criteria for the "green cleaning" sector. Notably, the developmental Green Seal standard for green cleaning services recognizes both Green Seal and EcoLogo<sup>M</sup> certified products. (See paragraph 4.1 at [www.greenaseal.org/proposed\\_env\\_stds\\_for\\_cleaning\\_svcs.pdf](http://www.greenaseal.org/proposed_env_stds_for_cleaning_svcs.pdf)). By recognizing both EcoLogo<sup>M</sup> and Green Seal certification, you will ensure credibility and trust in your environmental purchasing and maximize the product selection available to your purchasers. We would be very happy to work with you to revise the language in Section V. of the document with appropriate references to EcoLogo<sup>M</sup> certification. (Kevin Gallagher, Vice Pres., TerraChoice Environmental Marketing Inc.)

--We strongly encourage you to include both the EcoLogo and Green Seal certification programs in the guidelines. By so doing, you will re-enforce the integrity of your program and increase the range of product choices available to your purchasers.

Scott Paper is one of North America's leading producers of sanitary paper products for both institutional and home markets. Our brands include Embassy, Embassy Supreme, White Swan, Mini-Max and Esteem.

When we decided to seek third party certification of our environmental claims, we considered all options and chose the Environmental Choice Program (the EcoLogo). We judged EcoLogo to be highly credible, widely known and used, and most meaningful to our customers and markets. In large measure, this is because the program addresses all of the potential environmental impacts in the life-cycle of sanitary paper products.

(Markham Ray, Director of Marketing, Scott Paper Limited, Away From Home Division)

--Why do you not also allow/accept products certified Green by the Environmental Choice Program. That Program is recognized by Green Seal as there is a mutual recognition agreement, as well as many bids in the US accept their criteria/certification. By doing so, it will allow for more Certified products as ECP has

more product criteria and they have additional manufacturers. In addition, leading manufacturers like Johnson Diversey, Airkem/Ecolab etc. are seeking their certification by ECP.  
(Mike Sawchuk, Vice President and General Manager, Enviro-Solutions)

--Use of EPA Design for the Environment (DfE) Criteria for the following reasons:

(1) As an important part of our Federal Government and not a private organization, the EPA is able to set standards without undue influence from non-governmental entities those stakeholders may benefit financially from achieving "green certification" for products that they market and sell. (2) The chemical criteria used by the DfE and by Green Seal are, in fact, very similar; but where the organizations differ, the DfE is more stringent. For example, DfE criteria do not allow the use of d-limonene in cleaners whereas Green Seal does. Although d-limonene is a naturally occurring degreaser, it has been found not to be as "green" as some other chemical compounds, which work as well. (3) Green Seal, as well as other certifying organizations such as Environmental Choice in Canada, charges significant fees to certify products plus ongoing annual fees to maintain certifications. At least some of these costs, if not all, have to be passed along to consumers thus increasing the costs to your schools. (4) The DfE Program does not charge for the work done in evaluating chemical formulations per established criteria. However, it should be noted that the DfE does not require performance testing of the products rightly leaving that to manufacturers and end-users as stated below.

(Robert Allen, Vice President Business Development, Pioneer Eclipse Corporation)

--Don't just follow, lead!! I hope someone is interested in this information: (1) Green Seal is not the best standard for environmentally preferable cleaning products. (2) Products recognized by the EPA's design for the environment program are formulated to a higher standard with regard to public health and protection of our environment. (3) After 8 years of pilot programs (92-2000) the EPA states that environmentally preferred cleaning products should be bio-based and not contain dyes, fragrances or petro-based ingredients. (4) 60% of Green Seal products contain dyes, fragrances and many old technology petro-based ingredients that cause health risks. Product MSDS prove this statement. (5) Some Green Seal products have a HMIS health rating as high as 3 which is outrageous. (6) Remember Green Seal is a private company answerable to a board of directors and its clients (non-profit status doesn't change a business model). (7) The EPA's main concern is our health and the environment. (Tony Ferlazzo)

--Thanks so much for taking a few minutes and I understand greatly the impact of your decisions will be for New York as well as the rest of the country, which no doubt will follow your lead. As a company that greatly respects the work Green Seal has done for the past 20 years and one that feels it is the leading third party certification on "Green" products I must tell you that I strongly believe that the Design for the Environment (DfE) Green Formulation Initiative for Cleaning Products of the federal Environmental Protection Agency should also be an approved source for "Green" products for the state of New York. We as a company want to research, develop, and formulate products that are both better for the environment and work as well or better than traditional ones, but one major issue is cost. We are a small business that must ensure we get the most "bang" for our buck. We currently have 3 products that are Green Seal certified and are now working on 3 others. We also have two products that we have partnered with the DfE US EPA on. We feel that having more competition will only increase the quality of Green cleaning products. We are also hoping that it will decrease the funding it requires to get a product certified. This reduction will bring the price down for the manufacturer which in turn will pass it along to distributors, retailers, and end users. I appreciate your time and respect your decision. Keep Green Seal and add DfE US EPA as an approved source for "Green" cleaning products!

(Carl E. Sherman, Director of Sales, Core Products Company, Inc.)

--To ignore the DfE program and leave Green Seal as the only alternative for "green" registration would be a gross error. The marketplace will decide which of these "green" registration systems will carry the most weight. It is too early for one system to emerge as the dominate factor, as the economic models for GS or

DfE registration are yet to be proven viable. I would urge allowance of DfE certified products as well as Green Seal and also consider other frameworks of certification as they emerge. Our perspective as a supplier of raw materials to the cleaning industry is that no single approach can provide the final path towards more sustainable chemistry. There should be as many viable paths forward as possible. Our firm has customers that have both GS and DfE certified cleaning products. There are merits for both systems and in reality, the systems are not that different in scope. Of course, besides these two criteria based performance standards, the EU has adopted their own approach towards surfactants and cleaning compositions as has Canada, Japan, China, New Zealand and Australia, so these systems are evolving worldwide. The great news is that clean can be green and sustainable. We should leave the path towards that goal as broad as possible to provide consumers in NY as much competition as possible.  
(Samuel B. Moore, CEO, Burlington Chemical Company, Inc., Burlington, NC)

--We would like to weigh in on the side of those folks who have presented a case for New York to expand their upcoming OGS guidelines for purchasing green chemical cleaning products to include products that have been recognized by the EPA under their Design for the Environment (DfE) program.

While we have no problem with Green Seal, we do believe that the OGS guidelines should be as inclusive as reasonably possible. Moreover, we consider the EPA program to be extremely well structured and very effective in terms of encouraging the production and marketing of products that have environmentally preferable biodegradability and toxicity profiles.

SYSCO Corporation markets about 15 products that have received DfE recognition. [See attached pdf file of our DfE product brochure]. All of these products were previously marketed by us with somewhat different formulations. From our experience, we can state unequivocally that the EPA scrutinized the previous products very closely from a technical perspective and then suggested improvements that might be made. In some instances, SYSCO was obliged to approach our raw material suppliers to effect changes requested by the EPA. But the end result was very positive. We were able to improve the formulations to obtain environmentally superior products that performed as well or better than the previous products. Also, the cost increases that we incurred were minimal, and we were able to offer the newer DfE formulated products to our customers at exactly the same price as the older products; no price increases were implemented as a result of the DfE recognition.

In short, we have a very high opinion of the DfE program and those people at the EPA that administer it. We have been impressed with their technical expertise and their dedication to improving the quality of our environment. Quite honestly, our partnership with the EPA in this endeavor has developed into a larger commitment on the part of SYSCO than we would ever have experienced had we merely obtained Green Seal approval for the same products. For example, that commitment has encouraged us to review other products, including those for which we would not seek DfE recognition, in order to ascertain whether they might be candidates for environmental improvement. Some such products have already been reformulated by SYSCO in the spirit of our cooperative partnership with the EPA.

Additionally, we feel that the lower cost of the DfE program is another reason to merit consideration. Obviously SYSCO can afford to qualify our products as green by whatever method is necessary. But smaller companies with less resources available than SYSCO may be hindered in their ability to compete if Green Seal is their only option. We believe that New York would benefit from having as much qualified competition for your cleaning product business as possible.

(Richard Cottrell, Manager, Non-Food, Regulatory / Technical Services, SYSCO Corporation)

--The U.S. EPA's Design for the Environment (DfE) program has a more comprehensive product review criteria than GS-37. Put another way, the DfE program has raised the bar on evaluating raw materials that go into the actual products. DfE is more defined because of its assessment methodology and the technical review team. During the evaluation process with EPA we were able to re-work the formulations to not only meet stringent guidelines, but improve the performance as well. To top it off; what could be better than the seal of the Environmental Protection Agency?

The program known as Green Seal is affectionately referred to in the industry as "Green Steal". If a

company has the money to be able to afford the original certification and annual maintenance fee you “too” can obtain the Green Seal of approval. This does not take into account the sub-certification fees assessed for private label products. Currently there are several certified products having no business making a green claim. If a few are certified today, how many will there be in the future? This does not bode well for a ground breaking program that is being watched by all concerned. (Stephen Davison, President, Clean Control Corporation, Warner Robins, GA)

--Our first request is that OGS also accept products that are certified by Canada's Environmental Choice and ecolabeling program. Environmental Choice should be recognized as certifying products that meet or exceed the GS 37 standard. Green Seal can verify this. There are a few products, particularly for floor care, that are certified under Environmental Choice but not Green Seal. (Katherine Kelleher of (NYSUT) NYS United Teachers)

--As a raw material supplier to the cleaning products industry, we too have heard many concerns about the cost of Green Seal certification from small companies. We have further heard larger companies suggest that while the cost is an issue for them as well, this barrier to entry has helped their business by reducing competition from smaller firms. While we fully support and appreciate the Green Seal™ initiative, we also believe there is room for other certification processes.

"Design for the Environment", or DFE, allows many raw material suppliers to seek certification of their raw materials, whereas Green Seal currently does not. As such, by allowing DFE certification as an alternative, it opens the door to responsible ingredient suppliers to actively work to introduce materials that meet the criteria for environmental responsibility. This in turn will allow many cleaning product manufacturers alternatives to create more "GREEN" products. This fosters a healthy competitive market. This also gives asset owners a wider variety of products available to meet the varied needs of maintaining the built environment. In the long run, this will produce more incentive for companies to introduce high performance products that offer value to cleaning professionals. This will ultimately help reduce the environmental impact of cleaning industry activities. Another feature of the approach to certifying raw materials is that many classes of materials, beyond the current surfactant class, can be incorporated into the DFE process. This approach offers formulators the ability to confidently, economically, and competitively produce unique, complex, and highly effective products for their respective industries. The DFE process may represent a model for other industrial materials markets.

There is clearly room for both the Green Seal™ and DFE initiatives, as not all formulators work on the same level or in the same manner. The cost of one versus the other will give the finished product firms an economic choice that best fits their particular business model. This economic choice will likely keep the price of certifying environmentally responsible products in check and prevent it from becoming an extreme economic burden. If finished product formulators can shift to "Green", without significant or unreasonable cost, it will encourage most, if not all of them, to pursue this as a normal part of product design.

Another key benefit of this healthy competition is that better, more efficient products will be used to preserve the targeted assets for a longer period of time. This effectively increases the life cycle of the materials and environments being maintained. As a result, this longer life cycle makes better use of the embodied energy these assets represent. The longer an asset stays in use, whether carpet, stone, concrete, or other building material, the smaller its initial environmental footprint becomes. It is a win-win scenario on all levels.

(J Kirk Hendrix, IICRC Certified Master Cleaner, IICRC Certified Senior Inspector, Product Manager, Innovative Chemical Technologies Inc)

--I understand that the State of New York is in the process of defining what constitutes an environmentally preferable product (EPP) and the methods by which manufacturers can show that their products are environmentally preferable. Dr. Lauren Heine, of the GreenBlue Institute, and Mr. William Balek, of the International Sanitary Supply Association, testified before the state legislature last week about the

Environmental Protection Agency's Design for the Environment (DfE) Formulator Program, requesting that New York State include DfE-recognized formulations within the scope of its EPP program. We greatly appreciate their words on behalf of DfE and hope that the information on the DfE approach to product review and recognition, described in the document referenced below, is helpful to New York State's goals.

The DfE Formulator Program is part of EPA's Office of Pollution Prevention and Toxics (OPPT), the Agency's lead office for the assessment of new and existing chemicals under the Toxic Substances Control Act. The great value of the DfE Formulator Programs rests in its ability to harness OPPT's formidable chemical expertise and assessment tools, and to apply them to the evaluation of chemical-based formulations, like cleaning products. Because we approach the review of formulations in a manner that is similar to a product manufacturer's approach, functional component by functional component, looking for the key characteristics that define health and environmental preferability, we have a strong rapport with manufacturers and special ability to guide their formulation of safer products.

A committee of the DfE Green Formulation Initiative, led by Dr. Heine, developed "Design for the Environment Formulator Program: A Discriminating and Protective Approach to Cleaning Product Review and Recognition" (available online at <http://www.cleangredients.org/resources>). It does an excellent job of highlighting the DfE Formulator approach and showing how it compares to a well-known EPP standard. Because of our office's unique chemical expertise, DfE is able to bring a high level of scrutiny to formulation review: we are able to uncover chemicals of concern that can be masked by raw material blends or by dilution in water, we can spot negative synergies between ingredients, we can review all product ingredients, including those in fragrances and dyes, and, very importantly, we can recommend safer substitutes for potentially problematic ingredients. Also of note, we can apply this approach to any product class, including those where a standard does not currently exist.

As we state on our website, when you see the DfE logo on a product it means that the DfE scientific review team has screened each ingredient for potential human health and environmental effects and that—based on currently available information, EPA predictive models, and expert judgment—the product contains only those ingredients that pose the least concern among chemicals in their class. Product manufacturers who become DfE partners, and earn the right to display the DfE logo on recognized products, have invested heavily in research, development and reformulation, to ensure that their ingredients and finished product line up on the green end of the health and environmental spectrum, while maintaining or improving product performance. They deserve the "green" label and the opportunity to sell their products in EPP markets. (For a list of DfE partners and recognized products, see <http://www.epa.gov/dfe/pubs/projects/formulat/formpart.htm>.)

The DfE Program is very proud of its work with product manufacturers and the trust they have placed in us as interpreters and guides to safer product formulation. After reviewing our materials, I hope the Office of General Services (OGS) will agree with them and many others who have defined the DfE Formulation program as the "green chemistry" approach to EPP. I would be happy to answer any questions OGS may have about DfE's Formulator Program. Please contact me at (202) 564-3821 or [davies.clive@epa.gov](mailto:davies.clive@epa.gov), or Libby Sommer at (202) 564-1065 or [sommer.elizabeth@epa.gov](mailto:sommer.elizabeth@epa.gov). (Clive Davies, Design for the Environment Branch, Economics, Exposure and Technology Division Office of Pollution Prevention and Toxics Room, Washington, DC)

--While there is no universally accepted set of standards for green products, there are some well accepted principles for how they should be developed and how green products can be identified. Institutions such as the International Organization for Standardization (ISO), the Global Ecolabelling Network (GEN), and the U.S. Environmental Protection Agency (EPA) have all issued guidelines or criteria for the development of environmental product standards and for third-party certification of environmentally preferable products. These emphasize many of the same things, namely, that environmental criteria or standards for products and services must be: explicit and objective; independent of any conflict-of-interest; based on the life-cycle effects of the product or service; and developed in an open and transparent process. Organizations like Green Seal have been developing standards using this approach for a number of years; in fact, Green Seal meets the ISO standards for ecolabeling programs (ISO 14020 and 14024), GEN's criteria for membership,

and EPA's criteria for third-party certifiers. We urge the State to ensure that any standards it references in its purchasing and the organizations that have developed them fulfill these basic criteria. (Arthur B. Weissman, Ph.D., President and CEO, Green Seal, Inc., Washington, D.C.)

--We strongly agree that the Designation of Approved Products must be linked to products that are independently certified by a reputable third party certifying organization. It is absolutely essential that purchasers, and of course the children and school staff that will be exposed to these products, be assured that each product has been independently analyzed and certified to its safety and effectiveness. We agree that Green Seal is a reputable third party certifying organization. Environmental Choice is also reputable and should be included as part of the procurement guidelines.

(Stephen J. Boese, New York State Director, Healthy Schools Network, American Academy of Pediatrics, Dist. II, American Lung Association of NYC, American Lung Association of NYS, The Association of New York City Education Councils, Campaign for Healthy Children, Citizens Environmental Coalition, Citizens For A Clean Environment, Community Health and Environment Coalition, Environmental Advocates of NY, For a Better Bronx, Grassroots Environmental Education, INFORM, Inc., Learning Disabilities Association of NYS, Learning Disabilities Association WNY, National Resources Defense Council, NEA of New York, New York Committee for Occupational Health and Safety, Toxic Waste Lupus Coalition, WEAFT for Environmental Justice, Wellness in the Schools Inc., Jacquelyn Kamin, Community Affairs Director of Opportunity Charter School, Philip J. Landrigan, MD, MSc, Professor and Chairman of Department of Community & Preventive Medicine Mount Sinai School of Medicine, Connecticut Foundation for Environmentally Safe Schools, Health Schools Campaign, Chicago IL, Healthy Children Organizing Project, San Francisco, Ca., and NEA Healthy Schools Caucus)

--Be More Inclusive of Products Recognized and Certified Via Certain Additional Programs When Selecting EP Cleaning Products

I. General Comments:

We (GreenBlue) believe that New York should take an approach that is inclusive, effective, protective of public and environmental health and affordable. We strongly believe that NY would gain significant benefits by being more inclusive of products recognized and certified via certain additional programs when selecting EP cleaning products. Taking a more inclusive approach will provide NY with a broader selection of green cleaning products that are high-performance, safer for workers, children and other building occupants, healthier to the indoor environment and bring the best overall economic value for NY taxpayers. In our opinion, the currently proposed approach is too exclusive when it comes to defining environmentally preferable cleaning products. The proposal favors Green Seal standards and Green Seal products in all its specifications without clear justification of the human and environmental health benefits of the Green Seal standard over other approaches. We believe that NY will benefit by being more inclusive of products recognized and certified via additional programs for two major reasons:

Reason 1: There are several product recognition and certification programs that result in cleaning products that are environmentally preferable and protective of human health. Some of them are even more protective than Green Seal standards with respect to the health of children and sensitive populations. These include:

- Canadian Environmental Choice <http://www.environmentalchoice.com/>
- MBDC Cradle to Cradle Certification <http://www.c2ccertified.com/>
- U.S. Environmental Protection Agency Design for the Environment (DfE) Formulator Program <http://www.epa.gov/dfe/pubs/projects/formulat/index.htm>

We would like to address one program in particular that was created to encourage raw material manufacturers and cleaning product formulators to partner with the U.S. Environmental Protection Agency (EPA) to design environmentally preferable cleaning products. We believe that NY should not miss the opportunity to gain the benefits of the U.S. EPA Design for the Environment (DfE) Formulator Program. To date, the DfE program has provided technical expertise in the development and recognition of over 160 chemical products. The motto of the DfE Program is: *"if it is not in your formulation, you*



*don't have to worry about it!"*

Please see the attached document entitled, "*Design for the Environment Formulator Program: A Discriminating and Protective Approach to Cleaning Product Review and Recognition*" which lays out a comprehensive set of human and environmental health attributes, describes in detail the DfE review process and compares it to Green Seal's GS-37 standard.

Reason 2: NY State has an opportunity to set a precedent for inclusiveness and fairness. There is no good reason to exclude other valid product recognition programs and it does not make sense to force the other programs to benchmark against the Green Seal standard in the case of GS-37. The DfE Formulator Program, like the other product recognition programs, helps to protect human and environmental health while encouraging companies to develop, market and invest in environmentally preferred products. Taking a more inclusive approach will provide purchasers and users with a larger selection of high performance products in more product classes at a lower total cost. We strongly recommend that NY include products recognized by DfE in their purchasing program for both schools now and administrative offices in the future.

- Being inclusive provides more affordable alternatives for smaller companies. Different programs have different cost structures. For example, what if a company designed a cleaning product that exceeded the human and environmental health benefits of a Green Seal certified cleaning product, but the company chose for economic reasons instead to partner with the EPA DfE Formulator Program? We believe that schools and state agencies should not be denied the option of using a product that could be safer for human and environmental health.
- Being inclusive is fair and democratic. Effective public procurement policy should encourage fairness while discouraging bias and unnecessary exclusivity. NY will benefit by creating fair competition in the marketplace, not only for products but also for product recognition and certification services, resulting in lower total cost and greater choice for consumers.
- Being inclusive encourages innovation in the industry. Giving companies options promotes innovation. The DfE Formulator Program approach promotes continual improvement, product optimization and green chemistry without encouraging companies to design products merely to meet a standard.

## II. Comparison of the DfE Formulator Program Review Process and Green Seal's GS-37

The following comments are offered not in the spirit of criticism of Green Seal's standards but to demonstrate that the approach used by the DfE Formulator Program results in products that are environmentally preferable and environmentally sensitive – and probably MORE protective of human and environmental health than the Green Seal standards. We contrast the DfE Program with the GS-37 standard under which the largest variety of cleaning product classes are certified. Please see the comments in the far right column of the document entitled, "EPA Design for the Environment Formulator Program: A Discriminating and Protective Approach to Cleaning Product Review and Recognition".

The primary distinction between Green Seal's GS-37 and the DfE recognition program is in the approach to product evaluation. The DfE Program reviews every chemical/component in every ingredient of the formulated product and optimizes it with respect to green chemistry. That means that the formulator approach selects the ingredients with the best human and environmental health profiles whether the chemical is used as a fragrance, a solvent, a surfactant, etc. This is a very important distinction from product level certification. I highlight below 3 important benefits of the DfE/green chemistry approach. (Please see the DfE document for additional attribute comparisons.)

1. GS-37 product level certification sets a product level limit for attributes such as acute mammalian toxicity, volatile organic compounds, aquatic toxicity and more. These bright lines can mask the use of small amounts of highly toxic compounds. For example, mixing a small amount of a toxic compound with a larger amount of a less toxic compound can result in averaging of toxicity values so that the overall product toxicity is below (or above) the limit as set by the standard. (See example under the acute oral and inhalation toxicity attribute in the DfE document.)

With respect to total VOC content, a standard does not discern between volatile compounds that are toxic and those that are benign. *Dilution is not the solution to pollution and inherent hazard in products.*

The DfE approach assures that every chemical/component is the least hazardous in its class so that toxins will not be present, even if they are below a toxicity or exposure limit.

2. Fragrance formulations tend to be treated as highly proprietary information. GS-37 does not review fragrances. Rather they ask the formulators to ensure that the fragrances follow the Code of Practice of the International Fragrance Association (IFRA). This code may not be sufficiently protective, especially when a fragrance is added to a cleaning product. For example, the sensitization potential of terpenes (considered both fragrances and solvents) can be released when combined with oxidizers, such as hydrogen peroxide. In contrast, the DfE works directly with fragrance houses to improve their formulations. Components are screened for 1. sensitization; 2. carcinogenicity; 3. mutagenicity; 4. reproductive toxins; 5. environmental persistence; 6. aquatic toxicity; and 7. other hazardous characteristics in addition to potential interactive effects. These are the kinds of effects that are of great concern to advocates for children's health and the environmental and they are not addressed through the Green Seal standards.

3. There are a number of important human and environmental health attributes covered by the DfE Program that are not addressed by Green Seal's GS-37 standard. These include:

1. Chronic Health Effects:
  - a. Basic internal organ effects
  - b. Endocrine system
  - c. Blood
2. Mutagenicity
3. Bioaccumulation potential (ability to concentrate in living organisms)
4. Dermal toxicity
5. Respiratory sensitization
6. Chronic toxicity to aquatic life
7. Acute dermal toxicity

These are extremely important effects with respect to the health of children and sensitive populations. A standard is not flexible and cannot be used to apply expert judgment as new health-related information becomes available. The DfE approach assesses these important endpoints and continues to apply new knowledge. The DfE approach is much more comprehensive than the Green Seal standard.

We believe that NY would be more protective of human and environmental health if they required all EP products, including Green Seal certified products, to benchmark against the comprehensive set of attributes identified by DfE and not the other way around.

#### Conclusion:

We believe that industry, appropriate stakeholders and the citizens of NY are better served when they have choices. NY has several available options that are as good, if not stronger from the standpoint of children's and environmental health than current Green Seal standards. What NY State decides will have repercussions throughout the United States. Government, more than anyone, should be fair and equitable and not favor specific proprietary approaches. NY should allow products that have been through programs such as the U.S. EPA Design for the Environment Formulator Program, the MBDC Cradle-to-Cradle Certification and Canada's Environmental Choice in addition to Green Seal. None of these programs, including Green Seal, is perfect and they should not be required to benchmark against the Green Seal standard. Rather, all approved standards should be required to benchmark against a more comprehensive set of human and environmental health attributes such as those outlined in the document that describes the DfE Program.

We respectfully recommend that New York State Office of General Services modify its Guidelines to add products recognized or certified by U.S. EPA DfE, Canadian Environmental Choice and other qualified programs to its specifications. We sincerely believe that the people of New York as well as economic and democratic ideals will be better served if products recognized or certified through these rigorous programs are accepted in your specifications for environmentally sensitive cleaning products. NY should select appropriate standards for product approval by benchmarking each of the standards (and/or products) against a more comprehensive and protective set of attributes such as those laid out in the document that describes the DfE Program. NY has currently proposed to benchmark against GS standards which are incomplete

and inadequately protective – especially of the health of children and other sensitive populations.  
(Lauren Heine, Ph.D., Dir. Applied Science, GreenBlue, Charlottesville, VA)

## --II. Designation of Approved Products—Chemical Cleaners

We congratulate OGS for devising a system that not only relies on Green Seal certification but which also allows companies the ability to forgo certification provided that they can demonstrate their products comport with Green Seal specifications with the appropriate documentation. Such flexibility is crucial particularly to small businesses with limited resources.

However, we urge OGS to go beyond mere reliance on Green Seal standards as the cornerstone of its green procurement specifications for products. In developing its Guidelines, ISSA encourages OGS to establish a multi-faceted system that recognizes the multiple valid paths to qualifying cleaning products as environmentally preferable.

There are a number of scientifically sound methods available today that demonstrate a cleaning product has a preferred environmental and safety and health profile. While we recognize the good work that Green Seal has done in establishing its standards and certification programs, we do not believe the interests of the State are best served by an approach that relies exclusively on one set of standards in validating environmentally preferable cleaning products.

Rather, a procurement policy that recognizes multiple approaches to defining green products will ultimately ensure that the State has available a robust supply of efficacious green cleaning products at a competitive price.

Specifically, we encourage New York to establish a procurement policy that recognizes chemical cleaning products as environmentally preferable by virtue of:

- Green Seal certification;
- Environmental Choice certification;
- Recognition under the EPA Design for the Environment Formulator Initiative; or
- Other valid documentation that a product meets the requisite specifications (as the Guidelines currently do).

A. U.S. EPA Design for the Environment Formulator Initiative. ISSA encourages OGS in its Guidelines to recognize as environmentally preferable cleaning products produced in cooperation with the EPA Design for the Environment (DfE) Formulator Initiative.

ISSA has witnessed first hand the positive impact that the DfE Formulator Initiative has had on the environmental and safety and health profile of cleaning products generally. To date, approximately 38 of our member companies have produced over 160 products recognized as environmentally preferable under the Formulator Initiative. More importantly, many more companies are in the queue awaiting review of their products by DfE. In brief, DfE has been an influential force in encouraging companies to reformulate their products to demanding environmental and safety and health specifications.

The DfE program is a valid, credible, scientifically sound program that serves to effectively foster the development and formulation of cleaning products with a preferred environmental and safety and health profile. The DfE Formulator Initiative works with formulator companies to develop products that have a more positive health and environmental profile than other products in their class.

More specifically, under the DfE Formulator Initiative, each ingredient in the product is screened for potential human health and environmental effects. Furthermore, the DfE program ensures that the product contains only those ingredients that pose the least concern among chemicals in their class based on currently available information, predictive models, and expert judgment. Moreover, the DfE approach emphasizes continuous improvement as the opportunities for safer formulations grow with chemical innovation.

While others have suggested that the DfE Formulator Initiative does not qualify products on the basis of a definitive benchmark, that simply is not the case. The public is assured that a cleaning product that is recognized under the DfE program possesses certain well defined environmental and safety and health attributes. These attributes are set forth in an Appendix that we have attached to our comments for your

review and consideration. The Appendix also provides a side-by-side comparison between the DfE review process and the Green Seal GS-37 standard.

It is important to note that the DfE Formulator Initiative covers all of the important environmental hazard aspects of the GS-37 standard. More importantly, DfE addresses several categories that are not addressed in GS-37. For example, DfE addresses respiratory sensitization, mutagenicity, chronic toxicity to aquatic life, bioaccumulation, and acute dermal toxicity, none of which are addressed in GS-37. These criteria are especially important in light of the potential for children's exposure in schools. In this regard, it would appear that the DfE Formulator Initiative is a better measure of qualifying environmentally sensitive products for use in schools.

Additionally, fragrances are addressed under the DfE Formulator Initiative in a manner that provides greater protection to human health and the environment, as compared to the methodology employed by GS-37. Specifically, DfE works directly with fragrance houses to improve their formulations. Fragrance components are screened for:

- 1) Sensitization,
- 2) Carcinogenicity,
- 3) Mutagenicity,
- 4) Reproductive toxins,
- 5) Environmental persistence,
- 6) Aquatic toxicity, and
- 7) Other hazardous characteristics.

By contrast, GS-37 does not review fragrances. Rather it only requires that fragrances be identified on MSDSs and that any ingredient added to a product as a fragrance follow the Code of Practice of the International Fragrance Association. Again, the DfE Formulator Initiative imposes a higher level of scrutiny in reviewing products particularly as it relates to the types of exposures that are of paramount concern under Governor Pataki's Clean and Healthy Schools Legislation.

Another unique attribute of the DfE Formulator Initiative is continued improvement, which is the cornerstone of the DfE Formulator Initiative. Formulator partners in the DfE program commit to make continuous environmental improvement of their products and agree to explore on an on-going basis ways to further improve the health and environmental profile of their chemical cleaning products. At a minimum, formulator partners agree to discuss on a yearly basis the status of the company's reformulation research and continuous improvement activities.

*The Green Seal standards are based on a pass fail system that offers no greater recognition for products that are "more environmentally preferable" than other Green Seal recognized products, and therefore provides no incentive to innovate or improve on environmental attributes.*

Of equal importance, the DfE Formulator Initiative has been responsive to the needs of the users of cleaning products. For example, DfE recently announced that it will begin requiring all current and future partners in the formulator program to demonstrate that their products perform effectively in order to ensure a baseline measure of performance. We understand that DfE will execute this change in policy by requiring its formulator partners to submit appropriate test results comparable to those required by Green Seal.

Likewise, DfE has announced that it is exploring additional methods for ensuring further quality control and assurance of cleaning products recognized under the program. At the present, the Memorandum of Understanding between EPA/DfE and the partner company affirms that those ingredients disclosed to EPA during the product review process are in fact the only ingredients intentionally added or known to be present. Realizing that product users desire greater validation of a products environmental attributes, DfE has agreed to review additional measures it can readily incorporate to further assure users of the integrity of products recognized under the Formulator Initiative.

Based on the criteria applied by DfE, it is clear that the products recognized under the DfE Formulator Initiative possess a preferred environmental and safety and health profile. We therefore urge OGS to adopt a flexible approach that recognizes products reviewed by the DfE program as environmentally preferable in its Guidelines in addition to the other programs we referenced above. Adopting a flexible approach that recognizes DfE reviewed products and other programs will ensure a robust supply of effective,

environmentally preferable products and a competitive mix that helps maintain prices at reasonable levels.

B. A Flexible Approach to Defining Environmentally Preferable Cleaning Products Fosters Competition and Continued Improvement. A multi-faceted or flexible approach to qualifying environmentally preferable cleaning products, as advocated by ISSA, also has certain intrinsic values that must be considered by OGS and New York State generally. Specifically, an approach or system that recognizes multiple paths in qualifying green cleaning products fosters a competitive environment that will drive suppliers and the market in general on a path of continual improvement and innovation as it relates to environmental attributes.

On the other hand, a program that relies on a single approach such as Green Seal provides no market incentive to innovate, improve or otherwise differentiate products based on environmental attributes. Ultimately such an approach fosters mediocrity.

*In addition, by recognizing multiple approaches to qualifying environmentally preferable cleaning products, OGS will engender a healthy competitive environment as it relates to the green cleaning product recognition programs. In other words, these programs and services will be forced to compete head on, on a level playing field. Such a competitive environment will provide a market incentive for continued innovation and improvement among such programs, resulting in raising the environmental and safety and health bar to the benefit of all.*

C. Cost of Green Seal Certification can be Prohibitive for Small Businesses. The proposed Guidelines provide companies with the option of forgoing Green Seal certification and opting for other means of verifying compliance with Green Seal standards. Under such a system purchasers have historically favored the procurement of certified products over those that are supported by other methods of documentation because of the ease in review. As a consequence, under such an approach, suppliers only real option is to obtain certification.

However, the costs associated with Green Seal certification are significant and can be prohibitive particularly so for small businesses that operate regionally. For ISSA members, this is a major concern. The vast majority of ISSA membership is considered small business by any measure. For example, over 60% of our formulator members generate annual revenues of less than \$10 million; 50% have annual sale of \$5 million or less and employ 50 or fewer employees. While these companies may embrace Green Seal's philosophy, they are precluded from seeking certification because of the substantial costs.

For example, for a formulator with annual sales revenue of \$6 million the cost of a Green Seal certification is \$6,000 per product and an annual fee of \$4,200 is required to maintain certification. In addition, such a company may have over a hundred different formulations. If they were to certify half of their products the cost would be \$300,000 with an annual renewal fee of \$210,000, a prohibitive sum for a small business.

Moreover, Green Seal also assesses a fee of \$750 for sub-certification of private label products on top of the aforementioned fees. Many small to medium size ISSA formulator members that operate regionally thrive based on their ability to provide private label products to hundreds of customers. These private label products are virtually identical to the primary product, but provide customers with their own unique marketing identity.

It is common for a "core" formulation to be sold under 20-30 or more private labels, each of which would require an additional fee of \$750 to be recognized under the Green Seal certification program. Because of this multiplier effect, these sub-certification fees can be an onerous financial burden upon companies that are primarily private label formulators.

For ISSA members who are small businesses, the cost of certification and sub-certification has been a barrier, and they would be forced to sit on the sidelines under a procurement policy that relies exclusively on Green Seal because of the economic barriers associated with certification.

It is imperative, therefore, that OGS adopt a flexible approach, as advocated by ISSA, to ensure that formulators and other suppliers that are small businesses have an affordable option such as the DfE

Formulator Initiative. This approach will help to ensure a level playing field for small and big businesses alike while effectively qualifying efficacious green cleaning products.

D. Investment in Green Products and Technologies. Many companies have made a substantial investment in the development and production of green cleaning products under the EPA DfE Formulator Initiative, Environmental Choice and through other programs and processes that have resulted in environmentally preferable products that are both innovative and efficacious.

These companies have devoted substantial resources to research and development, and invested in changes in their formulations and processes, which has resulted in cleaning products with a preferred environmental and safety and health profile. For example, 38 companies that formulate cleaning products have partnered with the EPA DfE Formulator Initiative resulting in over 160 products qualified as environmentally preferable under that program. Many more companies are in the queue awaiting review of their products by DfE.

These companies should not be precluded from consideration under the contemplated New York State procurement policy merely because they have chosen a path to environmentally preferable products that is other than Green Seal. To preclude such companies and products from the scope of the cleaning services standard is patently inequitable and will only frustrate the continued proliferation and innovation in green products.

E. Floor Finishes and Strippers. ISSA supports the approach taken by OGS in reference to floor care products such as strippers and finishes.

The need for alternative approaches to defining “green” is most apparent in regard to the floor finishes and strippers product category. The state of technology has not yet caught up with Green Seal’s GS-40. As a consequence floor finish products that are based on the GS-40 specifications tend to powder easily and need to be stripped more frequently than non-GS-40 floor finishes that can last up to 3 years without stripping.

Floors that powder easily and/or need to be stripped frequently contribute to indoor air pollution from airborne germ-laden particles that are respirated by the building’s occupants. It can also cause environmental pollution by unnecessary floor finish polymers and stripping sludge effluence “going down the drain” and ending up in sewer treatment systems and/or the waterways. Thus, ironically the GS-40 certified products can contribute to indoor air pollution and contamination of the waterways.

It is essential from a human health and environmental perspective that floors are protected by a quality finish that is both easy to clean and is durable for 3 or more years. In effect, quality floor finishes that are properly maintained, help lower human exposure to indoor air pollution and reduce water pollution.

We therefore urge OGS not to rely exclusively on GS-40 for floor care products because of the inherent problems with products that currently meet the standard’s requirements.

#### F. Summation—Designation of Approved Products—Chemical Cleaners

For all of the above reasons, we urge the New York State Office of General Services to adopt a multi-faceted approach in defining chemical-based environmentally preferable cleaning products. Specifically, ISSA encourages OGS to adopt an approach that recognizes cleaning products as environmentally preferable by virtue of:

- Green Seal certification; or
- Environmental Choice Certification; or
- Recognition under the EPA Design for the Environment Formulator Initiative; or
- Other valid documentation that a product meets the requisite specifications.

A procurement policy of this nature will ultimately ensure that the New York State school system has available a robust supply of efficacious green cleaning products at a competitive price.

### III Designation of Approved Products—Paper Products

In addition to chemical cleaners, the proposed Guidelines also would establish environmental specifications for paper towels, paper napkins and tissue paper. In regard to these specifications, ISSA submits the following comments for the consideration of OGS.

A. Paper Products Are Outside the Scope of the Clean and Healthy Schools Legislation. ISSA respectfully

submits that the establishment of environmental specifications for paper products is outside the scope of Governor Pataki's Clean and Healthy Schools legislation and therefore should be precluded from the scope of the Guidelines.

As set forth in the Legislative Intent of S. 5435, the Clean and Healthy Schools legislation, the purpose of the legislation is to "...reduce as much as possible exposure of children and school staff to potentially harmful chemicals and substances used in the cleaning and maintenance of schools." The stated purpose of the Guidelines also echoes this intent noting the purpose is to prevent exposures to "...harmful chemicals from cleaners, waxes, deodorizers and other maintenance products."

In effect the legislative intent and the purpose of the Guidelines make clear that the procurement and use of environmentally sensitive cleaning products is intended to protect children, teachers and other school employees from unnecessary exposure to chemical based products that might be present in the school environment.

However, paper towels, napkins, and tissue paper do not generate such hazardous exposures, regardless of their fiber content. Stated simply, these paper products do not create health concerns due to the presence of chemicals or their vapors, or otherwise adversely impact the indoor school environment to which children and others may be exposed. Consequently these paper products are beyond the scope of the Guidelines. We therefore recommend that OGS remove its proposed environmental specifications for paper products from the Guidelines.

B. ISSA Supports a Flexible Approach to Defining Environmentally Preferable Paper Products. In the event that New York State and OGS deem it appropriate to establish environmental specifications for paper products, we urge the State to adopt an approach that references the multiple paths to qualifying paper products as environmentally preferable for the reasons set forth in Section II of our comments above and because of the considerations expressed below. Specifically, we encourage OGS to establish a procurement policy that recognizes paper products as environmentally preferable by virtue of:

- Green Seal certification;
- Environmental Choice certification;
- Compliance with U.S. EPA Recommended Recovered Fiber Content Levels for Commercial / Industrial Sanitary Tissue Products <http://www.epa.gov/cpg/products/recommended>; or
- Compliance with the Standard for Minimum Percentage by Weight of Post-Consumer Material Content as set forth in the Recycled Emblem Regulations of New York State (6 NYCRR Part 368) <http://www.dec.state.ny.us/website/regs/part368.html#368-4>

In addition to the reasons set forth in Section II of our comments, we believe this is the more prudent and environmentally sound approach for the reasons set forth below.

Exclusive reliance on Green Seal paper standards is not likely to provide the NYS school system with an adequate supply of paper products at affordable prices. To the best of our knowledge there are only three companies that have certified products under GS-1 and GS-9, despite the fact that these standards have been around since 1992 and 1993 respectively. In specifying only these standards for paper products, OGS will severely limit the number of products that will qualify for State procurement. As a consequence, the limited supply will likely drive up the prices paid by the state. The net result will be a limited array of paper products at an artificially high price with questionable environmental attributes.

Moreover, the Green Seal standards for paper products referenced in the Guidelines (GS-1 and GS-9) are not reflective of the current manufacturing practices and therefore provide questionable environmental benefits in many cases.

For example, Green Seal disallows the use of chlorine compounds in deinking and bleaching recovered material. However, while the use of elemental chlorine was associated with the formation of dioxins in the late 1980's and early 1990's, those manufacturing techniques were discontinued in the late 1990's when more sophisticated practices were adopted. Manufacturing facilities using chlorine compounds today have no detectable dioxins in effluents when using state-of-the-art analytical techniques with detection limits of 2 parts per trillion. Given the nature of today's manufacturing practices, there is no scientific evidence that would indicate that the proper use of chlorine compounds produces any negative environmental impact.

On a related note, GS-1 and GS-9 also require that paper towels, napkins, and tissue contain 100%

recovered materials. While this may be a laudable goal, it is not practical or realistic for integrated paper manufacturers that produce a multitude of products for many different end uses all in the same facility. In such operations, some of the product applications require virgin fiber.

Any time virgin fiber is used in a mill there is a possibility that some of those virgin fibers may get into the finished recycled content product through the broke systems and the water reuse systems. Implementation of manufacturing processes to absolutely ensure that virgin fibers do not enter a recycled production line in an integrated paper mill would be cost prohibitive, inefficient, and result in no measurable environmental benefit. Consequently, most integrated paper mills are not able to manufacture paper products that are composed of 100% recovered materials.

This point underscores the need for a flexible approach in defining environmentally preferable paper products for the purposes of state procurement. It is important to note that the approaches taken by the U.S. EPA, the State of New York, and Environmental Choice deviate from Green Seal's approach in qualifying environmentally preferable cleaning products. Most notably, these alternative approaches do not require 100% recovered content, and do not prohibit chlorine. Rather U.S. EPA and New York State establish realistic levels for both post-consumer recycled content as well as overall recovered content, neither of which approach 100%. Environmental Choice focuses on the manufacturing practices and their potential environmental impact.

Adopting a flexible approach in qualifying environmentally preferable paper products as recommended by ISSA will ensure that OGS Guidelines will result in a robust supply of paper products that meet reasonable environmental criteria that are more reflective of the advances in the marketplace. We therefore urge OGS to adopt the approach advocated by ISSA.

(Bill Balek, Director of Legislative Affairs, ISSA, Lincolnwood, IL)

30q. I understand that the State of New York is in the process of defining what constitutes an environmentally preferable product (EPP) and the methods by which manufacturers can show that their products are environmentally preferable. Dr. Lauren Heine, of the GreenBlue Institute, and Mr. William Balek, of the International Sanitary Supply Association, testified before the state legislature last week about the Environmental Protection Agency's Design for the Environment (DfE) Formulator Program, requesting that you include DfE-recognized formulations within the scope of your EPP program. We greatly appreciate their words on behalf of DfE and hope that the information on the DfE approach to product review and recognition, described in the document referenced below, is helpful to your goals.

The DfE Formulator Program is part of EPA's Office of Pollution Prevention and Toxics (OPPT), the Agency's lead office for the assessment of new and existing chemicals under the Toxic Substances Control Act. The great value of the DfE Formulator Programs rests in its ability to harness OPPT's formidable chemical expertise and assessment tools, and to apply them to the evaluation of chemical-based formulations, like cleaning products. Because we approach the review of formulations in a manner that is similar to a product manufacturer's approach, functional component by functional component, looking for the key characteristics that define health and environmental preferability, we have a strong rapport with manufacturers and special ability to guide their formulation of safer products.

I understand that you are familiar with the document, "Design for the Environment Formulator Program: A Discriminating and Protective Approach to Cleaning Product Review and Recognition" (available online at <http://www.cleangredients.org/resources>) Developed by a committee of the DfE Green Formulation Initiative, led by Dr. Heine, it does an excellent job of highlighting the DfE Formulator approach and showing how it compares to a well-known EPP standard. Because of our office's unique chemical expertise, DfE is able to bring a high level of scrutiny to formulation review: we are able to uncover chemicals of concern that can be masked by raw material blends or by dilution in water, we can spot negative synergies between ingredients, we can review all product ingredients, including those in fragrances and dyes, and, very importantly, we can recommend safer substitutes for potentially problematic ingredients. Also of note, we can apply this approach to any product class, including those where a standard does not currently exist.

As we state on our website, when you see the DfE logo on a product it means that the DfE scientific



review team has screened each ingredient for potential human health and environmental effects and that—based on currently available information, EPA predictive models, and expert judgment—the product contains only those ingredients that pose the least concern among chemicals in their class. Product manufacturers who become DfE partners, and earn the right to display the DfE logo on recognized products, have invested heavily in research, development and reformulation, to ensure that their ingredients and finished product line up on the green end of the health and environmental spectrum, while maintaining or improving product performance. They deserve the "green" label and the opportunity to sell their products in EPP markets. (For a list of DfE partners and recognized products, see <http://www.epa.gov/dfe/pubs/projects/formulat/formpart.htm>.)

The DfE Program is very proud of its work with product manufacturers and the trust they have placed in us as interpreters and guides to safer product formulation. After reviewing our materials, I hope you agree with them and many others who have defined the DfE Formulation program as the "green chemistry" approach to EPP. I would be happy to answer any questions you may have about DfE's Formulator Program. Please contact me at (202) 564-3821 or [davies.clive@epa.gov](mailto:davies.clive@epa.gov), or Libby Sommer at (202) 564-1065 or [sommer.elizabeth@epa.gov](mailto:sommer.elizabeth@epa.gov). (Clive Davies, Chief, (DfE) Design for the Environment Program, (EPA) U.S. Environmental Protection Agency)

--We are pleased to be invited to provide our response to the proposed guidelines for the procurement of environmentally responsible cleaning and maintenance products for New York State Schools. We applaud your commitment to the environment and to the well being of the students and staff in your schools. At SCA Tissue North America, we too are dedicated to protecting the environment and, with facilities in South Glens Falls and Greenwich, NY, we have demonstrated our commitment to supporting your great state as well.

Today and for the past 12 years, we have provided New York State public schools and their administrative offices with 100% recycled, 100% elemental and process chlorine-free paper towel, tissue and napkin products that meet both the industry and our own high environmental standards. We currently supply more than 85,000 cases per year of paper towel and tissue products to New York schools through the Community Work and Independence organization, and we supply nearly 50,000 cases through our other sources of distribution.

In order for the State of New York to fully embark upon an environmental procurement plan that offers the most efficient use of resources, we highly recommend that you broaden your standards for the "Designation of Approved Products" to include other nationally recognized third-party certification programs, such as the Environmental Choice Program, alongside Green Seal. Under your proposed standards, products that are EcoLogo" (Environmental Choice") certified would be excluded. By including Environmental Choice in your standards, you will offer New York state, your schools, and your communities a far wider range of responsibly manufactured products - and you will take a leading role in actively endorsing a commitment toward sustainability.

#### Why Choose the Environmental Choice Program?

Environmental Choice is regarded as North America's leading benchmark of environmentally friendly products and services. SCA Tissue is the first American sanitary paper manufacturer with processes meeting rigorous Environmental Choice standards for the production of towel, tissue and napkin products. Our manufacturing facilities and products meet strict requirements in the following areas:

- Resource consumption: A comprehensive audit qualified the type and amount of material used in the manufacturing process. Evaluated were various fiber sources, including post-consumer, printed recovered and pre-consumer material.
- Energy consumption: The type and amount of energy we use in the production process was surveyed at each facility for its efficiency.
- Effluent discharge: Our plants' discharge was evaluated for biological oxygen demand, total suspended solids and levels of sublethal toxicity to aquatic organisms.
- Net solid waste: The amount of waste from our production processes and its impact on the

environment were documented and examined.

While many traditional certification programs examine single attributes such as recycled content or chlorine-free manufacturing, the Environmental Choice Program *reviews literally every stage of the manufacturing process* for its environmental impact. This type of certification is a natural fit with SCA Tissue's own holistic business approach. Currently, SCA Tissue offers over 65 towel and tissue products that are EcoLogo certified.

(Don Lewis, Sr. Vice President-Sales & Marketing, SCA Tissue North America, Neenah, WI)

--After reviewing the Draft Guidelines for Procurement and Use of Environmentally Sensitive Cleaning & Maintenance Products issued by the State of New York, Clean Control Corporation wishes to voice our concerns regarding sole reliance on Green Seal certification for product approval designations.

As a manufacturer and private labeler of cleaning products for both retail and I&I markets since 1991, we have made an effort to produce effective products using the safest chemicals possible that comply with applicable environmental safety and health regulations.

As a small family-owned business, we recognized the value of becoming a member of the International Sanitary Supply Association (ISSA) in 1996. ISSA provides invaluable assistance with numerous regulatory issues, including green cleaning seminars and support of continuous improvement ideals associated with green cleaning initiatives.

In June 2004 we began our association with the Design for the Environment (DfE) Program in an effort to obtain the most up-to-date information on components used in our cleaning formulations.

In August 2005 we formalized our commitment to the DfE Program by signing a Memorandum of Understanding (MOU). To date, Clean Control Corporation has obtained recognition for sixteen cleaning formulations under the DfE Program. These formulations include bathroom cleaners, glass and surface cleaners, degreasers and carpet cleaners (<http://odoban.com/MenuEarthChoice.html>). Our products are not only environmentally preferable but efficacious, receiving numerous patents and certifications under industry standards such as Carpet & Rug Institute and The WoolSafe Organisation.

We at Clean Control Corporation applaud the efforts of the State of New York to protect children and employee health. However, we believe that the information provided under the DfE Program and the DfE recognition for product formulations thereof is based on the most scientifically credible guidance available and deserves serious consideration under all state mandated guidelines for procurement of environmentally sensitive cleaning & maintenance products. We support the position of ISSA and DfE, urging New York State to adopt a flexible approach in defining chemical-based environmentally preferable cleaning products. (Cory S. Hammock, Vice President of Research and Development, Clean Control Corporation, Warner Robins, GA)

--Thank you for this opportunity to comment on the proposed New York State, "Guidelines and Specifications for the Procurement and Use of Environmentally Sensitive Cleaning and Maintenance Products". We compliment NY for its proactive approach to specifying cleaning products that are safer for human and environmental health.

Coastwide Laboratories is a 70-year old cleaning products formulator and distributor that currently operate in the states of Oregon and Washington but are nationally recognized for a strong commitment to sustainable cleaning product development. We are active on a number of green fronts including EPA Design for the Environment (DfE), Green Seal, Canadian Environmental Choice, U.S. Green Building Council LEED Program, Healthy Hospital Initiatives, Healthy Schools Initiatives and promoting bio-derived alternatives. We are one of the few companies in the U.S. that has had its products reviewed and certified by EPA DfE, Green Seal, and Canadian Environmental Choice. Our experience with all three organizations may provide some helpful insights into your decision making process.

In the late 1980's when cleaning product formulators were searching for replacements for chlorinated solvents like methylene chloride and trichloroethylene we were introduced to a solvent derived from citrus fruits. There was very little if any valid scientific data related to the ecotoxicity, carcinogenicity, aquatic toxicity or sensitization effects of this solvent. Yet, formulators bought into the concept that since it is

derived from citrus fruits it must be safer for human and environmental health.

We began using this solvent in one of our products. Shortly after introducing the product we noticed a significant spike in complaints by professional cleaning product workers. The complaints included respiratory problems, watery eyes, rashes, itchy soft skin tissue and headaches. These complaints concerned us. After considerable research, we decided to stop formulating with this solvent.

We were not only concerned about the solvent but there were other chemicals that also troubled us. These included high levels of 2-butoxyethanol in detergents and wax removers; hydrofluoric acid in toilet stain removers; sulfuric acid in drain openers; crystalline silica in sweeping compounds; paradichlorobenzene in urinal blocks; zinc compounds in floor finishes; high level of phosphates in carpet cleaning compounds; nonyl phenol ethoxylates and APEs in all types of cleaning products; dibutyl phthalates in floor finishes; phthalates in fragrances and high levels of volatile organic compounds.

The amount of hazardous substances appearing on product material safety data sheets (MSDS) emphasized the need for better screening, guidance or regulation. We searched and couldn't find a viable model so began to collect information and build a product design standard that we could use to help screen out hazardous substances during the early stages of product research and development BEFORE these potentially harmful chemicals found their way into our products. This was the origin of our internal Green Gatekeeper™ Chemical Screening Program.

Green Seal developed their first cleaning product standard GS-37 and released it in 2000. Green Seal GS-37 initially only included glass cleaners, general-purpose cleaners and bathroom cleaners. Coastwide submitted several products to Green Seal and had them certified. Some of our customers wanted confirmation that cleaning products in categories that were not covered by Green Seal were also environmentally preferable. Coastwide needed a way to validate a broader category of products.

Dr. Lauren Heine at the Green Blue Institute introduced us to the EPA Design for the Environment (DfE) Formulator Initiative. We met Clive Davies and David DiFiore at the EPA and were impressed with the high level of professionalism and scientific expertise their DfE program provides. Their scientists screened products and identified chemicals that were harmful and potentially detrimental to human and environmental health. Coastwide requested to become a Partner in the EPA DfE Formulator Initiative. We submitted full disclosure of formulations for review and were successful in having them accepted. We have found the DfE program to be outstanding and raised the bar when compared to other methods for validating the health, safety and environmental attributes and benefits of cleaning products.

The EPA DfE program helped us identify potentially hazardous substances BEFORE we made final raw material selection. The EPA DfE provided us with a broader set of categories than Green Seal. We especially liked the idea that EPA DfE carefully reviews fragrances, colorants and screens for endocrine disrupters. Green Seal does not include this in their standards. We are confident that a cleaning product formulation reviewed by EPA DfE meets or exceeds the highest environmental and human health standards currently available. For example, we found that products passing the DfE screen also passed the Green Seal Certification. However, there were a few instances where Green Seal Certified products would not pass the DfE screen. This confirms our belief that EPA DfE sets a higher standard than Green Seal in some categories.

In early 2005, Green Seal expanded their GS-37 Standard to include carpet cleaners. We submitted our carpet cleaner to Green Seal and had it certified. In mid-2005 Green Seal introduced its GS-40 Floor Product Standard and we submitted floor finishes and wax strippers to Green Seal and had them certified. We currently have products Green Seal certified in all Green Seal categories.

We also have several product formulations certified through the Canadian Environmental Choice Program.

It is clear that Green Seal to date has done a better job of selling its product to government. In many ways, Green Seal should be applauded for its short-term business plan. They have executed it well. However, government procurement and consumers are better served when they have competitive choices. Can you image what automobiles would cost or what the quality of autos might be if one automaker were allowed to narrowly define the specifications and monopolize the U.S. market?

We noticed in a trade publication article related to the recent NY Hearings that Green Seal compares

themselves to Underwriters Laboratories. We believe there is an important difference. UL doesn't advocate the exclusion of other standards or methods of validating claims. In fact, UL does just the opposite.

I sit on a technical panel for Underwriters Laboratories as well as a Technical Committee for ASTM. So let me use floor surface slip resistance standards as an example. Underwriters Laboratories UL410 Slip Resistance Standard references and accepts the Slip Resistance standard ASTM D2047. UL and ASTM are technically competitors yet they respect and reference each other's standards. This provides industry and consumers with valid choices. Some companies like Coastwide Laboratories chooses to have their floor finishes tested and certified by Underwriters Laboratories. Others like Johnson Diversey choose to test their floor finishes by using ASTM D2047. Both are valid and scientifically sound ways to confirm that floor finishes meet acceptable slip resistance standards. There are plenty of other examples where procurement agencies reference multiple and competitive standards to confirm product quality, safety or performance.

Citizens are better served when a variety of credible methods of validation are included. We have found Green Seal, EPA DfE and Canadian Environmental Choice to all be valid methods of confirming a high level of protection for human and environmental health. This is why we have invested in all three. We believe that the U.S. Environmental Protection Agency DfE program encourages innovation and brings accountability, comprehensiveness, experience, professionalism, and integrity to procurement agencies.

We respectfully recommend that New York State Office of General Services modify its Guidelines and add EPA DfE and Canadian Environmental Choice products to its specifications. We sincerely believe that the people of New York will be better served if Green Seal, EPA DfE and Canadian Environmental Choice products were all included in your specifications for environmentally sensitive cleaning products.

(Roger McFadden, Vice President Technical Services, Coastwide Laboratories)

--This provides the comments of The Procter & Gamble Company (P&G) on the proposed guidelines and specifications for the procurement and use of environmentally sensitive cleaning and maintenance products for all public and nonpublic elementary and secondary schools in New York State. P&G is the manufacturer of retail and institutional cleaning products that are used in households and institutions throughout the state of New York.

P&G has a great interest in the proposed guidelines and commends the efforts that NYS is taking to improve both school environments and the environment-at-large. P&G has a long history of providing cleaning and personal care products to the world's consumers. One of the primary missions of the company is to ensure that our products are safe for consumers to use and safe for the environment.

General Comments:

With respect to the proposed guidelines as a whole, P&G believes that attempting to define environmentally preferable procurement (EPP) is an extremely complex issue. Thus, rather than developing a separate system for the procurement of "less toxic" cleaning products, P&G urges the Environmental Services Unit (ESU) to develop flexible information-based guidelines and specifications under which verified claims regarding the environmental characteristics of a product or service are disclosed voluntarily by the supplier. P&G believes that this approach will invariably stimulate continuous improvement in the environmental performance of manufacturer's products. Therefore, we believe that there is no compelling reason for the ESU to go beyond the principles provided by the U.S. Environmental Protection Agency's (EPA's) "Guidance on Acquisition of Environmentally Preferable Products and Services."

Information about a product should serve to educate and explain why certain attributes are important. As a starting point, ESU's final guidelines and specifications should incorporate by reference the Federal Trade Commission (FTC) guidelines for environmental marketing and advertising. The FTC guides are administrative interpretations of the FTC's policies, and regulations. The FTC guides require that all express and implied claims about objective product attributes rely upon a reasonable basis and be supported by competent and reliable evidence before they are made.

Environmental preferability is a dynamic attribute - not a universal one. What is environmentally preferable under one set of circumstances may not be preferable under another set, and what is environmentally preferable today may not be so tomorrow. Thus, by developing flexible information-based guidelines for purchasing environmental preferable products, state agencies can make informed choices

now, and in the future.

P&G's principal concern with the guidelines is the undue reliance on third-party criteria (Green Seal) alone to determine the environmental merits of products. While Green Seal is readily recognizable in the Industrial and Institutional markets, the use of these criteria may not significantly improve the quality of the environment. Furthermore, P&G believes that procurement decisions concerning environmental preferability are an inherent government function that should not be delegated to any third-party nongovernmental organization.

Third-party nongovernmental certifications are inherently arbitrary in terms of cutoffs, for both cleaning effectiveness and human and environmental criteria. For example, non-government organizations often make recommendations for ingredients to be used in institutional and industrial cleaning products without providing adequate scientific evidence on health, safety and performance. Most third-party certifications fail to provide justifications as to why certain limit values are chosen or how these limits protect human health and the environment. Moreover, third-party certifications fail to recognize the difference between "hazard" and "risk," hence the resultant standards are based upon the "list approach" for specific chemicals.

As a practical matter, 20 years of experience with eco-labeling in Europe and elsewhere has shown that the use of "eco-seals" does not provide consistent and clear information about environmental benefits. Moreover, the use of such symbols generally has the perverse effect of impeding innovation and interfering with the consumer's right to choose products on the basis of factual information about their environmental characteristics.

(Martha R. Macy-Ruhe, Product Safety & Regulatory Affairs, P&G Household Care, The Proctor & Gamble Company, Cincinnati, OH)

#### --(C) Exclusivity and Limitations of the Green Seal Standard

CSPA strongly urges the OGS not to limit the application of its guidelines exclusively to those products conforming to Green Seal standards. The New York guidelines should be flexible enough to allow a manufacturer to evidence environmental preferability either by meeting another reputable standard, or by showing through independent documentation a product's comparability. We believe that New York's guidelines should allow OGS to designate products qualifying for other environmental certifications such as the EPA Design-for-the-Environment (DfE) Program<sup>7</sup> or Canada's Environmental Choice Program. Such designation should be capable of occurring apart from the Green Seal criteria. Having flexibility in the designation criteria will encourage innovation rather than merely having companies conform to one static set of criteria (i.e., Green Seal).

Green Seal standards are not a one-size-fits-all approach. There are certain limitations to using the Green Seal standards. For example, because there are not environmental standards for every product category, states could inappropriately apply variations to Green Seal standards by expanding Green Seal standards requirements or applying the standards to other product categories/ chemistries that the standard was not originally intended. Further, States could potentially exclude beneficial products (i.e., biological products) from the approved list of environmentally sensitive cleaning and maintenance products because Green Seal doesn't address them in their standard.

OGS' sole reliance on a non-governmental organization's standards would arbitrarily exclude the benefits of new technologies. CSPA strongly believes that procurement decisions should accommodate and encourage innovations that lead to environmental improvement. However, eco-standards (e.g., Green Seal) are inherently technology-limiting since they lock-in existing technology and discourage innovation. For example, in implementing this proposed guidelines and specifications, certain key requirements to meet the GS-37 standards would eliminate biological product technology. CSPA believes that OGS should establish a procurement process that is open-ended and not restricted by the Green Seal standards. For example,

Canada's Environment Choice Program<sup>8</sup> offers several cleaning and janitorial product standards (CCD-110 and CCD-112) that address commercial use of biological formulations. Thus, at a minimum, CSPA urges that the guidelines be amended to provide an opportunity for alternative technologies not yet embraced as a

category under Green Seal.

CSPA supports me decision of OGS not to adopt GS-40 for I&I Floor Care Products. Their arbitrary "de-selection" of Zn-crosslinked finishes is not based on sound science.

<sup>7</sup> EPA Design-for-the-Environment Program - [www.epa.gov/dfe](http://www.epa.gov/dfe)

<sup>8</sup> Environmental Choice Program - [www.environmentalchoice.Com](http://www.environmentalchoice.Com)

(Robert J. Kiefer, Director, Scientific and International Affairs and Joseph T. Yost, Director, State Affairs, (CSPA), Consumer Specialty Products Assoc., Washington, DC)

--Conclusion of CSPA Comments:

CSPA urges the OGS to develop guidelines that make the process for selection on the approved list of environmentally sensitive cleaning and maintenance products more inclusive and open to other standards and programs. Ultimately, a guideline that allows choices, innovation, and doesn't lock in technologies is the best way to implement the legislative mandate and Governor Pataki's Executive Order. Government procurement and customers are better served when they have competitive choices. We respectfully recommend that New York State OGS modify its guidelines and add EPA DfE and Canadian Environmental Choice products to its specifications.

(Robert J. Kiefer, Director, Scientific and International Affairs and Joseph T. Yost, Director, State Affairs, (CSPA), Consumer Specialty Products Assoc., Washington, DC)

Positive and Negative Reaction to Use of Green Seal Inc. Standards

--Corcraft Comments on use of Green Seal Inc. Standards: (1) For over 40 years Corcraft has strived to produce products that were both user friendly as well as friendly to the environment. As new environmental technologies in chemistry emerged Corcraft has attempted to adopt the technologies in their products while at the same time not sacrificing performance. (2) Corcraft feels that although many of our products do not meet the requirements of the Green Seal organization, they do in fact meet Governor Pataki's Executive Order #134 for reduced hazards when used as directed. (3) Green Seal's standard-setting process is open to input from interested parties, such as members of industry, government, environmental and consumer groups and the public. Theoretically, this process enables all stakeholders to participate. In practice, however, it may be biased toward the industry perspective, because large companies usually have more time and money to develop and promote their positions than much smaller consumers and organizations. (4) By requiring vendors/manufacturers to meet Green Seal Standards, Corcraft feels that they, along with a majority of businesses that currently supply material, will not be allowed to supply goods to New York State funded agencies although their products are user/environmentally preferable. This fact will unnecessarily reduce the competitive purchasing process that will undoubtedly lead to increased costs to tax payers due to a reduced catalog of products which are approved for use in New York State. (5) As a relatively small player in this huge market, Corcraft, along with a number of other smaller suppliers, will have difficulty attaining Green Seal Certification, due to the very high costs associated with testing at the Green Seal lab. National companies that service far larger markets have the financial wherewithal to have the testing done and to maintain their certification. (James Hoffman, Director, NYS Department of Correctional Services, Division of Industries, Corcraft Products)

--(A) Is there any information on the financial and administrative support received by Green Seal from the Petrochemical Industry and its affiliated product-based Cleaning Corporations? (David E. Kincaid, Great Neck School District)

--This document needs revision, unless it is purely political and will never be used to actually suggest cleaning methodology. I have no interest in the NY guidelines, excepting that the misinformation they contain might spread to other regions. This is an example of foolishly allowing the "Greenseal" organization, a group that apparently has very little knowledge of cleaning science and a very big agenda for pushing themselves into a position of power in the cleaning industry, to make New York a poorer place

to raise children. You've made a mistake in allowing them to dictate what products are good or bad for cleaning. (Excerpt from his letter reads: "None of these are likely to suggest the "Green Seal" recommendations for cleaning, but then again, I'm only a 28 year veteran of the carpet cleaning business, and may be making my own misguided assumptions about your goofy guidelines.") (Bryan O'Haleck, Seattle)

--Don't just follow, lead!! I hope someone is interested in this information: (1) Green Seal is not the best standard for environmentally preferable cleaning products. (2) Products recognized by the EPA's design for the environment program are formulated to a higher standard with regard to public health and protection of our environment. (3) After 8 years of pilot programs (92-2000) the EPA states that environmentally preferred cleaning products should be bio-based and not contain dyes, fragrances or petro-based ingredients. (4) 60% of Green Seal products contain dyes, fragrances and many old technology petro-based ingredients that cause health risks. Product MSDS prove this statement. (5) Some Green Seal products have a HMIS health rating as high as 3 which is outrageous. (6) Remember Green Seal is a private company answerable to a board of directors and its clients (non-profit status doesn't change a business model). (7) The EPA's main concern is our health and the environment. (Tony Ferlazzo)

--I take issue with Mr. Weissman's recent comment during hearings: "No one complains about Underwriters Laboratories, and they take a fee for the service," Weissman said. NOT TRUE! As a previous owner of a company seeking UL approval on a line of electrical plate covers, I was NEVER able to come up with Underwriter's Laboratories fees. I DO AGREE that Green Seal should NOT be given an exclusive on certifying products.

(Fred May, Customer Service Manager, Brothers Cleaning Services, Inc., Eugene, Oregon)

--Von Drehle Corporation is a manufacturer of towel and tissue products. I'm writing to object to establishing Green Seal certification as a requirement in the contract/bidding/qualification process. Although many of our products, and the products of many other manufacturers, meet or exceed the requirements for Green Seal certification, the cost of Green Seal certification is prohibitive. In addition to the initial cost to approve a product, they require exorbitant fees to maintain the certification. They even go so far as to require that the manufacturer pay their travel expenses plus 30%. In our opinion, Green Seal is not a "non-profit" organization. Check the salaries of the principals. In this case, "non-profit" means there is no profit left in the company because the principals remove it for personal use. We respectfully suggest that you write the specifications as you want them but do not require a specific company's certification. You can accomplish the same goal without putting an unnecessary burden on manufacturers which would do nothing but limit competition from small and medium sized companies.

(Submitted By: [rvondrehle@vondrehle.com](mailto:rvondrehle@vondrehle.com))

--The program known as Green Seal is affectionately referred to in the industry as "Green Steal". If a company has the money to be able to afford the original certification and annual maintenance fee you "too" can obtain the Green Seal of approval. This does not take into account the sub-certification fees assessed for private label products. Currently there are several certified products having no business making a green claim. If a few are certified today, how many will there be in the future? This does not bode well for a ground breaking program that is being watched by all concerned. (Stephen Davison, President, Clean Control Corporation, Warner Robins, GA)

--I am writing in reference to the Proposed Guidelines and Specifications related to Environmentally Sensitive Cleaning and Maintenance products to be used in all schools in New York. First, let me say that I am in favor of implementing programs which further the use of "green" products in all types of facilities, including schools. The question, therefore, is not whether moving towards "green" cleaning is a healthy thing, but rather how we should come to a reasonable consensus as to how best facilitate this change.

As you know, the standards New York will require manufacturers such as my company to meet have

been based on those established by Green Seal, Inc. There can be no dispute that Green Seal has put itself front and center as the face of the movement towards green cleaning. There are many of us, however, who have strong reservations about Green Seal's anointing of itself as the only option in classifying what constitutes an acceptable green product and certifying these products as well. The role Green Seal plays in New York's implementation of its new law requiring green products be used in schools is at the crux of this entire matter. If the present draft's guidelines remain in place, and companies are given the opportunity to show they can meet Green Seal standards by providing ASTM testing results without necessarily having Green Seal certification in place, then I believe this will be fair and reasonable for all parties involved. But if Green Seal is able to change the guidelines --which it surely wants to do-- allowing only their certified products into New York's schools, the State will have climbed atop a slippery slope from whence it will find a return to fair, pragmatic regulation a difficult proposition. Thus, I think it is vital that you be aware of some facts having to do with Green Seal, including their fees and practices, as well as what may happen should they be given free reign over this new law and/or subsequent "green" laws:

1. Green Seal's fees are exorbitant and growing higher each year. If a manufacturer wishes to have a group of 6 products tested and certified, he/she will be forced to pay approximately \$30,000.00 in fees the first year and nearly \$20,000.00 per year thereafter to keep certification intact. (New products will require additional fees.) To show how out of touch Green Seal is with the burden this places upon small businesses, allow me to quote from Arthur Weissman, president and CEO of Green Seal: "No one complains about Underwriters Laboratories, and they take a fee for the service," he said at your very department's hearing. Perhaps what Mr. Weissman either fails or simply chooses not to understand is that UL fees are a mere fraction of Green Seal fees -- around \$500 per product. This should raise more than a few eyebrows, especially considering both are ostensibly "not for profit" entities, yet one charges exponentially more than the other .

2. While Green Seal claims to offer a "five-tier" fee structure to help smaller companies, this is not at all the case. The "discounts" offered are miniscule and do not change the fact that Green Seal certification is inherently geared towards favoring larger manufacturers.

3. There are other programs, notably the U.S. E.P.A.'s Design for the environment initiative, which offer standards equal to or surpassing Green Seal's without assessing huge fees. To not honor their work would be a mistake.

The number of manufacturers involved in cleaning and maintenance products in New York once numbered in the hundreds. Now there are only a few left. If Green Seal standards become the order of the day in New York, it will be large out-of-state companies who benefit most. While my company is not located in New York, we do a large amount of business there and are concerned with what happens there. I hope that New York will consider what I have mentioned above as it moves forward with these new laws. I would welcome a reply from you if you would like to discuss anything I have written about. (David Peskin, President, Creative Chemicals, Inc., Holyoke, MA)

#### --RELiance ON STANDARDS FROM A SINGLE ORGANIZATION

We are concerned that the Office of General Services has chosen to rely on one set of criteria to determine if a product is environmentally preferable. This does not seem to be a prudent direction as it limits the availability of products and in doing so, may cause the Agency not to consider products that may actually have better environmental profiles. Green Seal should be used only as an example of criteria, not the final determining factor. There are other programs that companies may participate in that could meet the goals the Office of General Services has set for itself. An example would be USEPA's Design for the Environment. There may be other programs that meet the goals of reducing impact on the environment as well. Companies should not have to be held hostage to an expensive certification program in order to demonstrate that their products are environmentally sound.

#### CONCLUSION

New York State's goal of reducing the impact of products on the environment is one we all share. The guidelines and standards should be based on balanced and scientifically supportable information in order to maintain the integrity of the program. We do not believe that standards such as these should intentionally



exclude products used to protect public health in schools. We also ask that the Office of General Services allow a broader opportunity for innovative and environmentally beneficial products to be used within the State. We suggest that the Office of General Services may want to have further dialogue with stakeholders prior to adopting these standards. (Eileen J. Moyer, Director of Regulatory Relations, Reckitt Benckiser North America, Parsippany, NJ)

#### --The Guidelines Should Not Adopt Green Seal Standards as the Only Definition of “Environmentally Sensitive” Products

We believe it would be shortsighted on the part of New York to rely solely on Green Seal standards for defining “environmentally sensitive” products. Specific concerns with the Green Seal criteria are discussed below:

##### A. Green Seal Criteria Are Not Consensus-Based Standards

While there is nothing unusual in government reliance upon or even adoption of consensus-based standards from a nationally recognized standards development organization, we believe it would be shortsighted for the agency to impose standards from a non-consensus based organization. While a consensus standard is developed with the participation of all parties that have a stake in the standards’ development or use, non-consensus standards carry no degree of certainty that they have been developed with complete, let alone the best, scientific and technical input or decision making from all affected stakeholders. Likewise, they are not appropriate for incorporation by reference into a regulatory scheme, because they lack the range of input and consideration among affected stakeholder groups appropriate in a rulemaking context. Where an agency is seeking to substitute the technical or scientific conclusions of a private organization for its own rulemaking process, it is especially important that the agency verify the integrity of the process used by the private organization. Green Seal does not satisfy the criteria for a consensus standards development organization, and its standards should not be adopted by New York in the Guidelines here.

We note that Green Seal claims it is a consensus-based standards development organization. However, Green Seal’s operations and procedures are not sufficiently transparent to allow evaluation of that claim, including review of its voting and appeals process and the weight and composition of its committees. Without a review of its operations and procedures, such process cannot be assumed to be a consensus process, and indeed, each standard is itself suspect.

A true consensus process also aids in the development of scientifically supported standards. An information standard – often generated by an expert (or non-expert, merely self-interested) panel, might make recommendations for ingredients to be used in institutional and industrial cleaning products without providing adequate scientific evidence on health, safety and performance. An information standard might likewise fail to provide justification as to why certain limit values were chosen or how these limits protect human health and the environment.

##### B. Green Seal Criteria Fail to Distinguish Between Hazard and Risk

The Green Seal standards appear to fail to recognize the difference between “hazard” and “risk” which is critical for purposes of evaluating potential impacts to human health. To scientists, “hazard” means whether a substance, if administered in high enough doses, can create a toxic effect in an organism. Almost all substances, including water and oxygen, can be toxic if administered in high enough doses, and thus pose a hazard. “Risk” considers both hazard and exposure. The Green Seal standards, in many regards, fail to distinguish between “hazard” and “risk,” and indeed appear to prohibit the use of many ingredients which may serve a useful if not critical purpose in a product related to protecting the environment and for providing a measure of safety, and which may, as used in the cleaning product, create little to no risk to human health.

##### C. Green Seal Criteria Fail to Adopt the Legislative Priority of Protecting the Health of Children and Employees in School Buildings

The authorizing legislation expresses concern about health threats to children and school employees from exposures while in “school buildings,” where children and staff “spend a significant part of their lives” while also expressing concern about discharges that burden publicly-owned wastewater treatment

works and appear in environmental water bodies. However, we believe the primary goal here is the protection of the health of children and school staff while in the school building. In short, the legislative intent focuses first on potential health effects, rather than general environmental effects that may occur outside of building. We would submit that adoption of the Green Seal criteria does not satisfy the intention of the legislation. The Green Seal criteria address a host of unrelated issues and do not respect the priority articulated by the Governor or the legislature.

For example, Green Seal GS-37 expresses the organization's political intention to discourage animal testing in 4.15. Section 4.10 requires the primary package of a cleaning product to be recyclable. Section 4.13 bans the use of selected ingredients outright, with no scientific expressed for the bans. And section 4.11 requires the cleaning product to be a concentrate. While perhaps laudable goals by themselves, these types of preferences and requirements do nothing to protect the health of children and employees in schools. The inflexible requirements they create tend to stifle innovation in the development of newer products and technologies. And these types of provisions present the very real possibility that cleaning products that are the most effective and most protective of human health would not meet Green Seal standards and would not be permitted for use in the school systems under the Guidelines.

#### D. Green Seal Criteria Prohibit Products Containing Alkylphenol Ethoxylates

Green Seal Standard GS-37 lists alkylphenol ethoxylates (APEs) as prohibited ingredients. The Guidelines present no such scientific justification for adopting this criteria and prohibiting the use of APE cleaning products. There is no evidence to support a conclusion that these products present a risk to humans and the environment.

Green Seal lists APEs as prohibited ingredients, despite the fact that numerous scientific studies support the conclusion that APEs actually comply with the Green Seal criteria for cleaning products. Altogether, APE-containing cleaning products should not have been prohibited by Green Seal standard, GS-37. Moreover, information that has been generated since Green Seal first adopted the APE prohibition further supports that these cleaning products do not present a risk.

APE-containing cleaning agents are not considered harmful to humans. More specifically NPEs, the primary surfactant used in cleaning products are not harmful to humans. NPEs are not readily absorbed through the skin. NPEs are readily metabolized and their metabolites excreted. NPEs used in cleaning products do not demonstrate estrogenic activity and their metabolites in mammals are not estrogenic. NPEs are not reproductive toxins. NPEs are not carcinogens. NPEs do not meet criteria for bioaccumulative compounds.

Additionally, NPEs and their biodegradation intermediates are not harmful to the environment. NPEs are not toxic to aquatic life and their biodegradation intermediates are biodegradable and as such recognized as not being persistent.

Recently published and scientifically up-to-date information from EPA further demonstrates that NPE are safe to human and the environment. EPA has finalized Water Quality Criteria (WQC) for Nonylphenol, a biodegradation intermediate of NPEs. According to EPA, the WQC is protective of any endocrine endpoints of concern. Based on a recently completed survey of monitoring studies, levels in the environment do not represent a concern. A recent analysis soon-to-be published found that aggregate NP-equivalent levels of alkylphenols (APs) and other APE biodegradation intermediates in the aquatic environment are generally below EPA's chronic WQC for NP.

For many years, the SI Group, Inc. (formerly Schenectady International) an NYS Chemical Alliance member company, has participated in industry consortia such as the Alkylphenol & Ethoxylates Research Council (APERC) to promote the safe use of alkylphenol derivatives used in the manufacture of non-ionic surfactants through research, product stewardship and outreach efforts, within the framework of responsible chemical management. This group sponsors research directed at understanding the health and environmental profile of alkylphenols and their derivatives. The Council and its members have sponsored extensive research in areas of analytical methods development, aquatic toxicity, environmental occurrence, fate and degradation, toxicology and pharmacokinetics. The Council makes all research available to the public. The work of APERC further supports the conclusion that APE containing products do not present health or environmental risks, and should not be prohibited by the Guidelines.

#### E. Green Seal Criteria Prohibit Products Containing Dibutyl Phthalate

We also note that the proposed Guidelines appear to call for an outright ban of dibutyl phthalate, or DBP, as an ingredient in environmentally sensitive cleaning products. DBP is used in the manufacture of cellulose polymers, adhesives, inks and caulking, and is also used in small amounts in cosmetics and nail polish. Little, if any, DBP would be expected to be used in the manufacture of cleaning products addressed by the Guidelines.

In addition, there is no scientific basis supporting a ban of DBP in the products covered by the proposed Guidelines. Actual total human exposures to phthalates from all sources have been quantified by the U.S. Centers for Disease Control, and overall levels of exposure – including to children of school age – has been measured to be well within government established safety levels. The U.S. Food and Drug Administration studied the CDC's biomonitoring data in 2001 and said it found "no reason for consumers to be alarmed at the use of cosmetics containing phthalates." And in 2002, the Cosmetic Ingredient Review (CIR) Expert Panel, an independent body of toxicologists and dermatologists that regularly reviews compounds used in cosmetics and personal care products, completed an extensive review of all the literature on several phthalates, including DBP, and found them to be "safe as used" in cosmetics.

#### F. Green Seal Criteria Inappropriately Prohibit Paper Products Manufactured with Chlorine Dioxide-Based Bleaching Processes

The Green Seal standards for paper towels and napkins (GS-09) and for tissue paper (GS-01) prohibit the use of "chlorine or any of its derivatives (such as hypochlorite and chlorine dioxide)" in the manufacturing process. As discussed above in Section V of these comments, these standards should not be adopted because they are not directed to the protection of the health of school children and staff, but to general environmental concerns. There is no scientific basis to assert that paper products produced with chlorine or its derivatives are harmful to human health.

With regard to environmental impacts, the Green Seal standard fails to recognize that all U.S. paper manufacturers have phased out the use of elemental chlorine in the bleaching process. Most have converted to chlorine dioxide-based processes, thereby eliminating detectable levels of dioxins (formed as an unintentional byproduct in bleaching processes using elemental chlorine) in mill effluents.

Chlorine dioxide processes have no greater environmental impact than other current technologies. In fact, the U.S. Environmental Protection Agency recognizes chlorine dioxide bleaching processes as a "best available technology" (BAT) for pulp and paper manufacturing. The attached [brochure](#) from the Alliance for Environmental Technology provides additional information on the environmental performance of chlorine dioxide-based, or "Elemental Chlorine Free" (ECF), processes. It is plain that the Green Seal criteria for bleaching processes yield no measurable health or environmental benefit and should not be adopted.

(Submitted by Geoff Hall, State and Local Affairs Manager, Northeast Region, American Chemistry Council, Albany, NY on behalf of Stephen Rosario, Executive Director, NYS Chemical Alliance and William F. Carroll, Ph.D, Acting Managing Director, Chlorine Chemistry Council)

--Green Seal (or equivalent) Exclusivity (p. 10) - SCJ strongly urges the OGS not to limit the application of its guidelines exclusively to those products conforming to Green Seal standards. The New York guidelines should be flexible enough to allow a manufacturer to evidence environmental preferability either by meeting another reputable standard, or by showing through independent documentation a product's comparability. For example, SCJ has entered into a voluntary partnership with the U.S. Environmental Protection Agency (EPA) under the Agency's Design for the Environment (DfE) program. The partnership recognizes SCJ's commitment to formulate its products with more environmentally-preferred ingredients under our Greenlist™ program. And the partnership designates two SCJ products - Scrubbing Bubbles® Trigger Bathroom Cleaner, and Shower Shine® Daily Shower Cleaner by Scrubbing Bubbles® - as "partnership products," acknowledging that each exemplifies a more positive health and environmental profile than those typically found in conventional cleaning products. Accordingly, packaging for these

products will be able to display the DfE logo and the words, "Formulated in Partnership with the Design for the Environment Program." We believe that New York's guidelines should allow OGS to designate these two SCJ products, and other products of SCJ or any other manufacturer qualifying for DfE- Such designation should be capable of occurring apart from the Green Seal criteria. Having flexibility in its designation criteria will also encourage innovation rather than merely having companies conform to one static set of criteria (i.e., Green Seal).

(F. H. Brewer, Director, Worldwide Government Relations, S.C. Johnson & Son, Inc. Racine, WI)

--Organizations, such as Green Seal, consult environmental, human health, governmental, and industry organizations when developing the standards that help purchasing entities identify which products are safer for people and the environment. Green Seal requires manufacturers to disclose all of the constituents in their formulations, and it uses this information to identify products that do not contain highly toxic ingredients.

By creating a method for users and manufacturers to define which products are environmentally preferable and to identify which products meet those criteria, Green Seal has been a key player in the green cleaning revolution. INFORM is pleased to see that the Office of General Services (OGS) has made Green Seal 37 the basis on which to build its environmentally preferable specifications; this is a solid base. INFORM applauds OGS for relying on peer reviewed scientific evidence rather than intuitive interpretations in developing its specifications.

OGS is charged with deciding if Green Seal 37 and the guidelines developed by OGS adequately protect children from the health effects associated with exposure to cleaning chemicals. However, even though the New York "green" cleaning law recognizes children's vulnerability to toxic exposures, Green Seal 37 does not make separate provisions for populations that may be more vulnerable or "sensitive" to exposure to cleaning chemicals.

Fortunately, the Green Seal Environmental Standard for Cleaning Services—Draft for Public Comment, which largely addresses implementation, has a section on vulnerable populations, parts of which could be applied to New York's specifications and guidelines. INFORM recommends that New York adapts all or some of the following language from this environmental standard to address children as a vulnerable population:

#### 5.10 Vulnerable Populations

The Cleaning Service Provider, working with building management, must identify and account for the presence of vulnerable populations that may become affected by cleaning operations. In situations where cleaning operations have the potential to affect any identified members of a vulnerable population, the Cleaning Service Provider shall:

5.10.1 Schedule daily cleaning activities to avoid exposure of vulnerable populations to the cleaning process.

5.10.2 Adopt alternative cleaning practices that minimize or make unnecessary the use of cleaning chemicals.

5.10.3 Use only cleaning chemicals without fragrances.

5.10.4 Use cleaning chemicals in areas only where sufficient ventilation is present to allow chemicals to dissipate before the area becomes repopulated. Provide additional ventilation through the use of blowers to enhance the rate of chemical dissipation.

5.10.5 Conduct cleaning operations in a manner that prevents the transfer of impacts to other areas of the building that may contain vulnerable populations.

Asthma rates in the United States have risen sharply in the last decade. Reducing exposure to asthma triggers, especially for children, is the first step toward reducing the costs to our society in terms of medical care, lost schools days, and employee productivity. Adopting the above Green Seal language in the OGS specifications and guidelines, particularly section 5.10.3, would significantly reduce childhood exposure to documented asthma triggers.

(Cameron S. Lory, Senior Associate, Chemical Hazards Prevention Program Coordinator, INFORM, Inc.,

New York, NY)

(NOTE: See also State Responses to #4 - Fragrances and #33 - Asthma)

--(B) OGS Should Not Rely Solely on Non-Governmental Organizations' Certifications

It should be recognized that there is no scientifically sound method for determining that a product is environmentally preferable overall. It has been our experience that attempting to define environmentally preferable or "environmentally sensitive" procurement is a tremendously complex issue that cannot reasonably be defined by a simple set of criteria or certification by a single non-governmental organization. Therefore, products should be considered based on an assessment of performance and environmental attributes that reflect the values and needs of the purchaser. Factors such as product safety, efficacy, ease-of-use, availability and cost must be given equal weight when examining the environmental characteristics of any particular product. Thus, CSPA urges the OGS to develop flexible information-based guidelines and specifications under which verified claims regarding the environmental characteristics of a product or service are disclosed voluntarily by the supplier. CSPA believes that this approach will invariably stimulate continuous improvement in the environmental performance of vendors' products.

CSPA strongly believes that procurement decisions concerning environmental preferability are an inherent government function that should not be delegated to any third-party nongovernmental organization. The OGS procurement decisions are inherent government functions. Accordingly, the OGS should not abdicate its critical decision-making process by placing unwarranted reliance on third-party certifications. These "eco-seals" (or other symbols) are awarded by centralized certification panels that purport to judge the environmental effects of products and to tell consumers which products are "good" for the environment.

CSPA has serious concerns that non-government certifications (e.g., Green Seal standards) are inherently arbitrary in terms of cutoffs, for both cleaning effectiveness and human and environmental criteria. For example, non-government organizations often make recommendations for ingredients (i.e., APEs and optical brighteners) not to be used in institutional and industrial cleaning products without providing adequate scientific evidence on health, safety and performance. Most third-party certifications fail to provide justification as to why certain limit values are chosen or how these limits protect human health and the environment (i.e., more restrictive VOC limits or preference for concentrates). Moreover, third-party certifications fail to recognize the difference between "hazard" and "risk," hence the resultant standards are based upon the "list approach" for specific chemicals.

As a practical matter, 20 years of experience with eco-labeling in Europe and elsewhere has shown that the use of "eco-seals" does not provide consistent and clear information about environmental benefits. Moreover, the use of such symbols generally has the perverse effect of impeding innovation, obstructing international (and interstate) trade and interfering with the consumer's right to choose products on the basis of factual information about their environmental characteristics.

(Robert J. Kiefer, Director, Scientific and International Affairs and Joseph T. Yost, Director, State Affairs, (CSPA), Consumer Specialty Products Assoc., Washington, DC)

--The Soap and Detergent Association is a 109-member national trade association representing the formulators of soaps, detergents, general household cleaning products, industrial/institutional cleaners, and the companies that supply ingredients and packaging to the formulators.

SDA commends New York State's efforts to provide a healthful environment for New York State schools. This is a goal which SDA shares with the State. As the home of the U.S. cleaning products industry, SDA is dedicated to improved health through improved personal hygiene and environmental cleaning. This commitment has been part of SDA's Mission since its founding in 1926.

SDA's main concerns are:

- The proposed guidelines place inappropriate and undue reliance on Green Seal standards for cleaning products;

(A) Undue Reliance on Green Seal Standards for Cleaning Products

With respect to the proposed guidelines as a whole, SDA is concerned with what we view as the undue reliance on Green Seal criteria alone to determine the environmental merits of cleaning products. SDA recommends that the New York State Office of General Services (OGS) incorporate a variety of approaches in its program, e.g., the US Environmental Protection Agency's (US EPA) Design for the Environment

(DfE). Also, manufacturers have environmental management strategies which take into account the life-cycle of products. These should also be considered when exploring the total environmental impacts of products.

Green Seal has a pecuniary interest in the adoption of its standards since it also certifies and awards a seal. The State of New York must exercise care that it does not promulgate a standards monopoly on behalf of Green Seal.

Green Seal also likes to compare itself to other standards setting organizations such as Underwriters Laboratories. Green Seal, however, is different in that it promulgates exclusionary standards, i.e., standards which exclude ingredients. These exclusions more often than not, represent Green Seal's preferences, rather than scientifically sound determinations.

Moreover, with respect to the use of standards generally, SDA has concerns that their cumbersome approval and amendment procedures will thwart the introduction of innovative, state-of-the-art products. The cleaning products industry is driven by research and development. New York State must be careful not to exclude itself from ready access to new products, including products that have improved environmental profiles.

SDA strongly urges the Office of General Services to provide the opportunity for public comment on the spectrum of available data that could be considered by OGS on cleaning product. We believe this is essential in order to assure a full and complete public record for its consideration. We view this as an essential fiduciary function on the part of the OGS in view of the potential impact on cleaning product suppliers.

(Dennis Griesing, Vice President, Government Affairs and Kathleen Stanton, Associate Director, Scientific Affairs, (SDA), The Soap and Detergent Association, Washington, DC)

--Use natural cleaning products. We must protect our children and our environment. (Patricia O'Connor)

--I believe the response from the Soap and Detergent Association spokesman Brian Sansoni was lacking - he's puzzled that people want potentially harmful chemicals removed from children's classrooms - and even questions "what people are looking for ?" I think people, especially students and staff, are looking for all toxic chemicals to be removed from our schools !

There are many environmentally safe and effective cleaners - that are chem-free and made from all-natural ingredients that would be much more suitable for NY States schools - please consider mandating a list of these acceptable cleaning agents !

(Richard Peters, 7th Grade Teacher, Lynch Middle School, Amsterdam, NY)

### Third Party Certification

--Third party certification of product formulations (Apply to all cleaning products).

(Deirdre Imus, Founder and President, The Deirdre Imus Environmental Center for Pediatric Oncology, Hackensack University Medical Center, The David Joseph Jurist Research Center For Tomorrows Children, Hackensack, NJ 07601)

--Beyond Green Seal requirements, it is not clear what is a requirement versus what is a guideline or suggestion, what is flexible and what is not.

(Deborah Lema, Research and Education, Racince Industries, Inc.)

--The Green Seal 37 standard that has been included in this draft is not up to date; the most current version is February 2006.

(Deborah Lema, Research and Education, Racince Industries, Inc.)

--(1) Regarding proof of Green Seal Certification, it is suggested that you do not rely on the manufacturer to submit the proof. The Green Seal web site is updated every 24 hours and NY State could do their own verification as opposed to relying on data that may be out of date and consequently the product no longer certified. (2) For the products/manufacturers that do not have Green Seal, you should not allow them to be

added to your list until all necessary documentation has been received and verified by NY State. Also, you need to ensure that all testing is done by Government certified labs that are third party/independent to the manufacturer and distributor.

(Mike Sawchuk, Vice President and General Manager, Enviro-Solutions)

--Section V - Designation of Approved Products – subsection B. 7 (Other Considerations) recommend to include language such as "Products should be certified by the Greenguard Environmental Institute for indoor air quality performance, resulting in low quantities of chemical and particle emissions and effective removal of allergens. " Companies which comply must submit certification verification showing that product has been tested within a year or that the product has been tested and shown to meet the Greenguard requirements.

(Ben Taube, Public Affairs Manager, Greenguard Environmental Institute)

--(1) Include Manufacturers that have both Green Seal Certified Products and Certified Bio Based Content products (3rd party Certification as directed by the United States Department of Agriculture); (2) Include all authorized New York State Distributors for said Manufacturers that are registered with the State.

(R.E. "Skip" Seal, Northeast Division Manager, Spartan Chemical Company, Inc.)

--SBGA supports the use of Green Seal, Inc. as the only standard for the identification of environmentally preferable products for schools in New York State. We support the Green Seal, Inc. standard because to date it is the only one we are aware of that has been a leader in setting an acceptable, measurable national standard already adopted by many reputable public and private sector institutions. We expect the marketplace will change. As a strong, solid, starting point for implementation of these new guidelines – we have searched and debated and see Green Seal, Inc. as the standard at this point in the process that we can describe, defend and embrace for our school communities.

SBGA does not support the provisions in the proposed guidelines which provide companies to the opportunity to effectively "self-certify" as meeting a loosely defined standard. We have serious concerns about the quality and validity of the products that will enter the marketplace under these provisions.

We make several recommendations throughout the guidelines that speak to our years of experience as directors of school facilities. We appreciate OGS' careful consideration of these recommendations.

(Signed By: David Brooks (Malone CSD), President & Frederick Koelbel (West Islip UFSD), 1<sup>st</sup> Vice President, Legislative Committee Chairman)(Submitted By: Kathleen Van De Loo, Executive Director, (NYS SBGA) NYS Association for Superintendents of School Buildings and Grounds, Inc., Albany, NY)

--OGS Should Adopt Flexible, Information-Based Guidelines Regarding Environmental Performance of Products and Services.

Each product has multiple attributes related to its ingredients, packaging, manufacturing processes, and uses. Measuring the overall environmental performance products and services is complex, highly use-specific, and may evolve as knowledge, products, and circumstances change.

Instead of relying on static, prescriptive criteria such as the Green Seal standards, the Guidelines should be more flexible, and allow consideration of verified claims regarding the environmental characteristics of a product or service. Such an approach would allow verified claims to be provided voluntarily by the supplier, consistent with Federal Trade Commission (FTC) "Guides for the Use of Environmental Marketing Claims."

Available at <http://www.ftc.gov/bcp/gmrule/guides980427.htm>.

(Submitted by Geoff Hall, State and Local Affairs Manager, Northeast Region, American Chemistry Council, Albany, NY on behalf of Stephen Rosario, Executive Director, NYS Chemical Alliance and William F. Carroll, Ph.D, Acting Managing Director, Chlorine Chemistry Council)

--(A) OGS Guidelines Should Adhere to FTC Guides for the Use of Environmental Marketing Claims

OGS guidelines and specifications should require vendors to provide accurate information about products' environmental performance. As a starting point, the OGS' final guidelines and specifications should incorporate by reference the Federal Trade Commission (FTC) Guides/or the Use of Environmental Marketing Claims<sup>4</sup> The FTC has extensive experience and expertise in determining when certain types of claims may deceive consumers. The FTC considers not only the explicit words of the claims, but also the implied messages conveyed by that claim, in deciding whether those claims are false or misleading.

In summary, the FTC Guides are administrative interpretations of the FTC's policies, regulations, and cases that establish a clear and consistent approach to environmental marketing regulation that has resulted in substantial benefits for consumers and businesses alike. The FTC Guides require that all express and implied claims about objective product attributes rely upon a reasonable basis and be supported by competent and reliable evidence before they are made. The FTC Guides specifically address claims of general environmental benefits that could be deceptive to consumers, stating that, "It is deceptive to represent, directly or by implication, that a product, package or service offers a general environmental benefit. Unqualified general claims of environmental benefit are difficult to interpret, and depending on their context, may convey a wide range of meanings to consumers."<sup>5</sup> FTC cites claims such as "environmentally friendly" and "environmentally safe" as examples of general claims that are considered deceptive if not further qualified.

To ensure that manufacturers' (or service providers') claims are accurate and not deceptive, the OGS' final guidelines and specifications should apply the FTC Guides' four general principles to all environmental marketing claims made by vendors of products or services:

- Qualifications and disclosures should be sufficiently clear and prominent to prevent deception;
- Claims should make clear whether they apply to the product, the package or a component of either;
- Claims should not overstate an environmental attribute or benefit expressly or by implication; and
- Comparative claims should be presented in a manner that makes the basis for the comparison sufficiently clear to avoid consumer deception."<sup>6</sup>

One of the FTC Guides' general principles states that comparative claims should be presented in a manner that makes the basis for the comparison sufficiently clear to avoid consumer deception. Also, the FTC Guides advise against the use of broad environmental terms implying environmental friendliness, since these terms are difficult to define and substantiate. Therefore, without conducting a full life-cycle assessment to consider all environmental impacts, classifying or marketing products as "environmentally preferable" or "environmentally sensitive" can be misleading to consumers. CSPA's policy is that we support the goals of the FTC Guides, and are encouraging the OGS to consider standards that are consistent and do not conflict with the Guides.

Environmental preferability is a dynamic attribute - not a universal one. What is environmentally preferable under one set of circumstances may not be preferable under another set, and what is environmentally preferable today may not be so tomorrow. Thus, by developing flexible information-based guidelines for purchasing environmental preferable goods (and services), the OGS will empower state agencies to make informed choices now, and in the future.

Information about a product (or service) should serve to educate and explain *why* certain attributes are important. At present, there are two sources of information about a product's environmental performance. First, manufacturers provide information either on product labels or in advertisements. Second, there are several non-government entities that: (1) provide environmental certification programs that award seals of approval; or (2) verify manufacturer-specific claims.

<sup>4</sup> 16 C.F.R. Part 260 (2005).

<sup>5</sup> See 16 C.F.R. §260.7(a).

<sup>6</sup> 61 Fed Reg. 53311-12 (Oct. 11, 1996).



(Robert J. Kiefer, Director, Scientific and International Affairs and Joseph T. Yost, Director, State Affairs, (CSPA), Consumer Specialty Products Assoc., Washington, DC)

--(H) Impact to Small-Medium Enterprises (SMEs)

CSPA's membership includes many small and medium enterprises. For SMEs, certification costs constitute a burden by imposing prescriptive formula-specific standards, unnecessary testing, and additional reporting requirements. SMEs will be precluded from participating in the procurement of environmentally sensitive cleaning and maintenance products due to cost of certification.

(Robert J. Kiefer, Director, Scientific and International Affairs and Joseph T. Yost, Director, State Affairs, (CSPA), Consumer Specialty Products Assoc., Washington, DC.

--The Consumer Specialty Products Association (CSPA) appreciates the opportunity to comment on the Office of General Services (OGS) Environmental Services Unit's (ESU's) Proposed Guidelines and Specifications for the Procurement and Use of Environmentally Sensitive Cleaning and Maintenance Products for All Public and Nonpublic Elementary and Secondary Schools in New York State<sup>1</sup> CSPA commits to working cooperatively with the OGS in developing pragmatic and scientifically supportable guidelines and specifications that implement recently enacted legislation (SB 5435)<sup>2</sup> and Governor Pataki's Executive Order 134.<sup>3</sup>

CSPA commends New York State's efforts to protect children and employee health by enabling schools to select products that both clean effectively and minimize adverse impacts on children and employee health and the environment. While we appreciate the intent of the guidelines, we have concerns with several of the statements and provisions included in the proposal. Specifically, we will address issues concerning:

- Adherence to the FTC Guides for the Use of Environmental Marketing Claims
- Sole Reliance on Non-Governmental Organizations' Certifications
- Exclusivity and Limitations of the Green Seal Standards
- Arbitrary Exclusion of Disinfectant and Sanitizing Products
- Proposed VOC Limits and Preference for Concentrates Are Arbitrary and Would Exclude Certain Products
- Focus on Cleaning Activities and Processes Used in the Entire School Building
- Substantiation of Products Meeting Appropriate Environmental Criteria
- Impact on Small-Medium Enterprises (SMEs)

<sup>1</sup> The proposed guidelines and specifications (and other pertinent documents) are posted on the OGS Environmental Services Unit's "Green Cleaning" webpage at: <http://vwww.ogs.state.ny.us/bldgadmin/environmental/default.html>.

<sup>2</sup> SB 5435 amended New York State Education Law and State Finance Law to require the procurement and use of "environmentally sensitive" cleaning and maintenance products in schools.

<sup>3</sup> EO 134 directs OGS to develop guidelines for all state agencies to procure and use "non-toxic" cleaning products in public buildings. See <http://www.ogs.state.ny.us/purchase/spg/pdfdocs/EQ134.pdf>.

Statement of Interest

CSPA is a voluntary, non-profit national trade association representing more than 260 companies engaged in the manufacture, formulation, distribution, and sale of chemical specialties products for household, institutional, commercial and industrial use. CSPA member companies' wide range of products includes home, lawn and garden pesticides, antimicrobial products including disinfectants and sanitizers, air care products, automotive specialty products, detergents and cleaning products, polishes and floor maintenance products, and various types of aerosol products. Many CSPA member companies sell products that are purchased by New York State schools, agencies and contractors for use in schools and state owned/maintained facilities.

Commercially formulated institutional products perform important functions and provide significant

environmental, public health and safety benefits. For example, cleaning products, many of which serve to disinfect and sanitize provide important public health benefits in reducing the transmission of infectious organisms on institutional surfaces that can have deleterious effects on people's health and well-being; and in food preparation areas to help aid food safety and sanitation efforts by protecting against food-borne illnesses caused by microbial contamination. In addition, carpet cleaning, polishes and floor maintenance products help extend the life of durable goods on which they are used, such as floors, furniture, fixtures, carpets, and other fabrics.

(Robert J. Kiefer, Director, Scientific and International Affairs and Joseph T. Yost, Director, State Affairs, (CSPA), Consumer Specialty Products Assoc., Washington, DC)

--I was recently excited to learn that your hard work has resulted in a set of guidelines for the schools of New York. Congratulations! My Company would welcome any opportunity to help schools meet the guidelines through the use of environmentally sensitive products and programs. I'm prepared to fill out, and drop off the "Manufacturer's Affidavit of Environmentally Sensitive Product Standards" if you think that would be appropriate at this time. Many of the products are currently being sold to a number of SUNYs.

(Jim Gambee, The Butcher Company, Senior District Manager)